













**PROCEEDINGS**  
**OF**  
**THE COUNCIL OF THE GOVERNOR GENERAL OF INDIA,**  
**ASSEMBLED FOR THE PURPOSE OF MAKING**  
**LAWS AND REGULATIONS,**

**From April 1907 to March 1908.**

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**WITH INDEX.**

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*Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Indian Councils Acts, 1861 and 1892 (24 & 25 Vict., c. 67, and 55 & 56 Vict., c. 14).*

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The Council met at the Viceregal Lodge, Simla, on Friday, the 6th September, 1907.

PRESENT :

His Excellency the Earl of Minto, P.C., G.C.M.G., G.M.S.I., G.M.I.E., Viceroy and Governor General of India, *presiding*.

His Honour Sir Denzil Ibbetson, K.C.S.I., Lieutenant-Governor of the Punjab.

His Excellency General Viscount Kitchener of Khartoum, G.C.B., O.M., G.C.M.G., Commander-in-Chief in India.

The Hon'ble Mr. H. Erie Richards, K.C.

The Hon'ble Mr. E. N. Baker, C.S.I.

The Hon'ble Major-General C. H. Scott, C.B., R.A.

The Hon'ble Sir Harvey Adamson, Kt., C.S.I.

The Hon'ble Mr. J. F. Finlay, C.S.I.

The Hon'ble Mr. J. O. Miller, C.S.I.

The Hon'ble Mr. S. Ismay, C.S.I.

The Hon'ble Tikka Sahib Ripudaman Singh of Nabha.

The Hon'ble Dr. Rashbehary Ghose, C.I.E., D.L.

The Hon'ble Mr. T. Gordon Walker, C.S.I.

NEW MEMBER.

The Hon'ble MR. GORDON WALKER took his seat as an Additional Member of Council.

[*Tikka Sahib Ripudaman Singh of Nabha*; [6TH SEPTEMBER, 1907.]  
*Sir Harvey Adamson.*]

### QUESTIONS AND ANSWERS.

The Hon'ble **TIKKA SAHIB RIPUDAMAN SINGH OF NABHA** asked the following questions:—

"Have the Government of India noticed the report of an alleged occurrence published by the "Tribune" of Lahore, in its issue of 22nd August, under the heading "Strange if True"?

"Is it true that the police have so far done nothing in connection with the burning to ashes by the local Muhammadans of a magnificent Sikh temple in the village of Udharwal in the Jhelum district'?

"Is it also true that two more Gurdwaras, those of the villages of Farid and Gandekas, have also been looted by them'?

"If the facts stated above are true, will the Government be pleased to state what action they propose to take in this matter, in view of the fact that these occurrences are bound to deeply wound the feelings of the loyal Sikh community?

"If the publication has not received Government's attention and should the Government have no information of the occurrence, will it be pleased to institute a searching enquiry with a view to the punishment of the offenders, and lay the papers on the Council table?"

The Hon'ble **SIR HARVEY ADAMSON** replied:—

"It is not true that the police have done nothing in connection with the burning of the Gurdwara at Udharwal. News of a fire having broken out in the Gurdwara reached the police station at Chakwal and incendiarism being suspected a Sub-Inspector visited the spot and arranged for the prosecution of three persons whom he suspected of having taken the opportunity of the village being evacuated for plague to burn and loot the Gurdwara and a neighbouring house which was also burnt. The Hindus of the village insisted that other persons also were guilty and the case was further investigated by a Sikh Sub-Inspector and subsequently by an Inspector. The case has been fully enquired into and the persons believed to be guilty will be brought before the courts for trial.

"The Government of India have received no information regarding the alleged looting of Gurdwaras at the villages of Farid and Gandekas, but inquiries are being made."

**AMENDMENT OF LOCAL AUTHORITIES LOAN;  
CODE OF CIVIL PROCEDURE.**

[6TH SEPTEMBER, 1907.] [Mr. Baker; Mr. Richards.]

**LOCAL AUTHORITIES LOAN (AMENDMENT) BILL.**

The Hon'ble MR. BAKER moved that the Bill further to amend the Local Authorities Loan Act, 1879, be referred to a Select Committee consisting of the Hon'ble Mr. Erle Richards, the Hon'ble Mr. Ismay, the Hon'ble Dr. Rashbehary Ghose and the mover.

The motion was put and agreed to.

**THE CODE OF CIVIL PROCEDURE BILL, 1901.**

The Hon'ble MR. RICHARDS moved for leave to withdraw the Bill to consolidate and amend the Law relating to the Procedure of the Courts of Civil Judicature, which was introduced in Council on the 20th December, 1901. He said:—"My Lord, the motion which I have the honour to make is preliminary to that which stands next on the notice paper, and I think it my duty to the Council to offer a few words of explanation for the course which I am inviting them to adopt. It will be within their recollection that six years ago leave was given to introduce a Bill to amend the Code of Civil Procedure. It is not necessary to enlarge upon the reasons which induced the Council to assent to that course: they will be found stated in the report of the speech of Sir Thomas Raleigh: and I do not think that anyone who has observed the improvement in the Civil Courts, which has taken place during the 25 years that have elapsed since the last Code was passed, or whose misfortune it is to have from time to time to deal with the mass of decisions which has accumulated around that Code, can doubt that the decision of Council was wise. The Bill introduced in 1901 was circulated in due course and elicited a great amount of valuable comment from Judges and others qualified to speak on the subject in all parts of India. It was referred to a Select Committee in October, 1902, consisting of the Hon'ble Sir Thomas Raleigh, the Hon'ble Sir Denzil Ibbetson, the Hon'ble Rai Bahadur P. Ananda Charlu, the Hon'ble Mr. Pugh, the Hon'ble Rai Bahadur Bipin Krishna Bose, the Hon'ble Mr. Whitworth, the Hon'ble Mr. Justice Rampini, the Hon'ble Mr. Power and the Hon'ble Rai Sri Ram Bahadur. Their report was presented to this Council in the following March, and the Bill, as amended by them, was then again circulated for opinions. I take this opportunity of acknowledging the debt we feel to the Members of that Committee for the work they did in the consideration of the subject.

## CODE OF CIVIL PROCEDURE.

[*Mr. Richards.*] [6TH SEPTEMBER, 1907.]

It is difficult to over-estimate the care and exactness with which they examined every detail of Civil Procedure; their labours have done much to facilitate the task of their successors. It cannot, however, be denied that the reception with which this second Bill met was not enthusiastic: I do not refer to criticisms of detail; there were some 700 clauses in the Bill and I should think but poorly of my profession if they could not suggest at least 700 defects in an Enactment of that length. But objections of substance were taken which appeared to the Government of India to deserve more consideration. It was alleged that the Bill was too ambitious in its aims, that it sought to provide for every detail of procedure, and to meet every possible contingency: that it attempted to embody the effect of an excessive number of decided cases. The result, it was said, was that the Bill had become complicated and cumbrous and that it would be a source of much litigation: It is not necessary, my Lord, to express any exact opinion upon those criticisms. The Bill has been before the Council and the public and they can judge how far they were well founded. It is probably fair to say that, to a great extent they were exaggerated, but to the Government of India it appears that there was at least sufficient force in them to make it desirable to reconsider the Bill before it was passed into law. The fact that there had been a considerable difference of opinion among the members of the Select Committee presented a further reason for that course. The matter was accordingly taken up in the Department over which I have the honour to preside. We considered the general nature of the objections and we took every opportunity of consulting Indian lawyers upon them. I would particularly desire, in this connection, to express my acknowledgments to Mr. Justice Chatterjee of Lahore, to Sir Gooroo Das Banerjee, to Mr. Lowndes of the Bombay Bar, to the Hon'ble Rai Sri Ram Bahadur, and to Mr. Justice Woodroffe, all of whom have been good enough to assist us in some detail. In the result a fresh draft was prepared; and this has recently been submitted to a Special Committee and has formed the basis of their deliberations. The Bill which I shall ask leave to introduce, if the present motion is carried, is the Bill as amended by that Special Committee. But it is necessary to first clear the ground by withdrawing the Bill which is at present before this Council, because two of the members of the Special Committee are not members of your Lordship's Council, and the new Bill cannot, therefore, be treated as an amendment by a Select Committee. It is, for this reason, my Lord, that I make the present motion."

The motion was put and agreed to.

[6TH SEPTEMBER, 1907.] [Mr. Richards.]

## THE CODE OF CIVIL PROCEDURE BILL, 1907.

The Hon'ble MR. RICHARDS moved for leave to introduce a new Bill to consolidate and amend the Law relating to the procedure of the Courts of Civil Judicature. He said :— " I now move, my Lord, for leave to introduce the new Bill to which I have already made reference ; and, at the outset, I desire to call the attention of Council to one fact which is of itself a sufficient justification for this motion. This Bill, my Lord, has the approval of the Special Committee appointed by the Government of India to consider the amendment of Civil Procedure ; and the four gentlemen who were associated with me on that Committee were the Chief Justice of Bengal, the Chief Justice of Bombay, the Hon'ble Mr. Ismay, and the Hon'ble Mr. Rashbehary Ghose. I do not know that there are four other lawyers in India who could command more completely the confidence of the public in a matter such as this, and the fact that they have approved of this Bill, and have approved of it unanimously, is, I venture to think, an argument of an almost conclusive character in its favour. The Report of the Committee with notes on clauses will be found among the papers which I have laid upon the table, but Council will expect that I should make some further explanation to them of the principal alterations proposed in the Bill. It deals with matters which are for the most part familiar only to lawyers ; but I propose to call attention only to the more general features ; and, in doing so, I will endeavour to avoid technical details as far as may be possible.

• " My Hon'ble Colleagues, or the majority of them at any rate, must have had occasion at some time or other to look at the Code of Civil Procedure ; and, if they will take in their hands the Draft Bill which is on this table, they will see that in form it presents a different appearance to that of the existing Code. The Bill itself consists of some 150 clauses only as against the 650 of which the present Code consists. But the change is one more of form than of reality : we recommend but few alterations of a radical character in the law ; the difference arises from a re-arrangement of the provisions. And, if my colleagues will glance at the clauses of the Bill, they will see that, speaking generally, they contain general propositions only : they lay down the general powers and jurisdictions of the Courts ; they state the broad limits within which the Courts may act ; but they make no attempt to provide for details : or to set up machinery to deal with minor matters. All these less important provisions will be found in the First Schedule ; and I will explain to Council the reason why this plan has been adopted and the advantages which, as is thought, will follow from it.



[*Mr. Richards.*] [6TH SEPTEMBER, 1907.]

" The present Code, my Lord, has been in force for 25 years; and the experience of those years, although it has shown that on the main lines the Bill was rightly framed, has also shown that in many respects there are defects. It would have been impossible that this should not have been so in the case of a measure so complicated as a Code of Civil Procedure. But the fact, my Lord, that these defects have remained so long uncured is an undoubted evil, and it is an evil which must necessarily ensue if every detail of procedure is to be confined within the iron walls of a statute. Change can then be made only by the legislature, and that necessarily involves delay. We cannot bring in Bills year by year to remedy defects as they occur. If we were to do so, our Statute Book would be full to confusion with small Enactments. But in the case of amending Acts of wider scope the process of legislation must be slow. This very Bill has been under the consideration of the Government of India for 14 years, and the present Code was for a similar time on the anvil. The result follows that improvements can only be made at long intervals and that imperfections in procedure may remain for years unremedied. In this way the action of our Courts is hampered and injustice is perpetuated. There is, my Lord, a further disadvantage in the absence of any elasticity in a law such as this. The Code of Civil Procedure extends practically to the whole of British India: indeed, I might go further, for it has been adopted or is followed in many of the Native States. When one considers how vast the area is to which it applies; how diverse are the conditions and the wants of the inhabitants of that area; one realizes how impossible it is to frame a fixed Code suitable alike to every part of this country. In a fixed Code the law-giver can only aim at setting up some one standard of procedure: and since it is not possible to postpone reforms in the interests of backward areas, it follows that the standard must necessarily be fixed by the needs of the more advanced communities. The result is that some of the machinery of the Code is more elaborate than is necessary for certain areas. Sir John Strachey has pointed this out in his book, and it is a fact that is hardly susceptible of dispute. My Lord, if some power were given to alter minor provisions without resort to the legislature; if there were means to enact that the more elaborate details of procedure should not apply in special circumstances or in special areas: these two objections could be avoided. The Committee are strongly of opinion that this should be done; they believe that in every respect it is expedient to introduce more elasticity into our procedure. They do not desire to do away with uniformity in main principles; they do not desire that there should be radical differences of procedure between the different Provinces. But they think that, with due regard to those considerations, it is possible to confer a power to change the less import-

[6TH SEPTEMBER, 1907.] [Mr. Richards.]

ant provisions of the Code in order that defects in them can be remedied at once as they are discovered and in order that in special circumstances the Courts may have power to simplify our legal machinery and to make it more adapted to the wants of less advanced communities.

"This, my Lord, is the reason of the changes in arrangement to which I have called attention. The Bill itself enacts the general principles of procedure; provisions which in the opinion of the Committee are not fundamental and can be varied without creating any divergence of principle are placed in the Schedule. A power to vary these provisions or to make new provisions is then given to the High Courts, but it is given subject to certain checks. In the first place the High Court can only act with the sanction of the Local Government or, in the case of the High Court of Calcutta, of the Government of India. That, my Lord, will ensure that every change shall be fully considered before it is made; and it will ensure that such uniformity is maintained among the various Provinces as may be thought desirable. The Committee have strengthened this by their recommendation that no proposal for change should be accepted before it has been communicated to the Government and to the other High Courts; though this is not a matter which requires to be provided for in the Act. Further than that it is proposed that High Courts shall only act after they have consulted Rule Committees,—standing bodies to be created by each High Court, on which the various branches of the legal profession are to have representatives. The Government of India attach importance to these Committees; they think that it will be most valuable to have the opinion of practitioners before changes are made. In England, my Lord, a Rule Committee constituted in the same way has been invested with similar powers to make rules of procedure and has exercised them with success for many years past: indeed, the main part of the practice in England depends, not upon Statute, but upon Rules. In India we have not hitherto followed this example. In 1859 when our first Code of Civil Procedure was passed, the Courts—if one compares them with their present condition—were in their infancy; and it may well be that it was wise to tie down their action within narrow limits. But there can be no reason now-a-days for denying to High Courts a power which is exercised with such beneficial results in England and which will, as I anticipate, be equally beneficial in India. The High Courts are more competent to deal with these matters than the legislature, and I submit to this Council that it is proper to give them powers to do so.

• • • "It has sometimes been objected by those with whom I have discussed this proposal that High Courts will be inert and will not care to exercise the power to amend the Rules. My first answer is that, even if that be

[Mr. Richards.] [6TH SEPTEMBER, 1907]

so, no harm will be done, for the position will be exactly as it is, now. The Act and the Schedules will contain the whole of the existing Code; and if any High Court does not desire to alter those provisions, they can maintain the *status quo* and, in that case, they will stand exactly as they do at this moment. And here I may observe that, in placing the Rules in a Schedule and giving power to the Courts to alter them, we are following exactly the precedent of the earlier Judicature Acts. My second answer is that I decline to accept the anticipation that High Courts will be inert. My experience is that the High Courts of India (and I include in this expression the Chief Courts) and the Judges who compose those Courts are foremost in their desire to improve the administration of justice. If this Bill be passed into law, they will have the opportunity of taking an active part in the improvement of procedure; and I, at least, am confident that they will take advantage of that opportunity in the best interests of the public.

"The Committee have referred in their Report to one objection that will be urged against their proposal. They anticipate that it will be pointed out that the change in the arrangement of the Code and the alteration in the familiar numbering of the sections will be a cause of inconvenience to practitioners. It is hardly necessary, however, to observe that this inconvenience will be of the most temporary character and that it will diminish day by day as the Code becomes familiar to those who have to deal with it. I do not for one moment believe that the members of my profession will allow such an objection to influence their judgment, if in other respects they approve of the change we propose. I sympathize with them in the inconvenience they will suffer at the first; but I appeal to them to suffer it, in order to gain those great advantages which, in the opinion of the Special Committee, will result from the change.

"I have every confidence, my Lord, that this reform will commend itself to the Courts and to the members of the various branches of my profession. And I have reason to hope that it will meet with the approval of Local Governments; at least it has the high authority of the Government of the United Provinces, for I find that in their letter commenting on the former Bill, they put forward a proposal on this point which is substantially the same as that which is adopted in this Bill.

"So much, my Lord, for the change in arrangement, and, for the reasons which, as we believe, justify that change. Before dealing with specific amendments I desire to say a word or two as to the general principles on which we have proceeded. There was a good deal of adverse comment on the last Bill

[6TH SEPTEMBER, 1907.] • [Mr. Richards.]

in regard to the changes of language. It is no doubt a temptation to any draftsman to bring the language of an old enactment into conformity with modern fashions in drafting. But there are objections to doing so which, in my judgment, should prevail in a case such as this. The wording of the existing Code is familiar to practitioners and is well understood by them: it has been interpreted, almost every sentence of it, by the Courts. To change that wording merely for the sake of verbal improvement would not therefore make the meaning clearer, while on the other hand, any change, even of a formal character, must involve some risk of opening a door to litigation. In the main, therefore, we have endeavoured to preserve the existing language, except where it appeared to us that there was some advantage of substance to be gained by alteration. Another comment on the former Bill was that it went into unnecessary detail: it was said that the clauses were long and complicated. We have endeavoured to avoid this criticism by framing clauses on less ambitious lines. It is impossible to provide for every contingency; and we have thought it better to aim at laying down general rules rather than to elaborate details in the hopes of meeting every possible case that could arise. Since the Code of 1882 was passed, there has been a manifest improvement in the Courts which have to administer it; and from the information at my command I am confident that the Courts are improving year by year. There is the less need therefore now for an elaboration of detail. The Courts can safely be trusted to give effect to principles; and it is in the interests of justice that they should apply principles rather than limit their judgments to the question whether any particular case before them is within the four corners of a section. One further point remains, and that is in regard to case-law. There has been, as I have said, an immense number of decisions on the Code; and to incorporate them, or even a small portion of them, would be to turn the Code into a mere Digest of rulings. The amendments in the Bill dealing with case-law have therefore been confined to points on which there is a conflict of authority between the various High Courts. When a doubt has been raised as to the meaning of a section and that doubt has been set at rest by a decision accepted and followed by all High Courts, no amendment has been made.

"I turn now, my Lord, to particular amendments of substance and the first I would call attention to is the new definition of "decrees", which will be found on the first page. This is a technical matter and I would only say of it, for the information of my legal friends, that the chief point in the amendment is the recognition of a distinction between preliminary and final decrees. It is hoped that this will have a sensible effect in rendering execution more expeditious. In other respects the preliminary part of the Bill does not call for observation.

[Mr. Richards.] · [6TH SEPTEMBER, 1907.]

"Provisions relating to the jurisdiction of Courts and *res judicata* have not been materially altered. The section of the present Code which deals with *res judicata* is reproduced in the Bill with but little change. It is an impossibility to embody a treatise on a subject so complicated as *res judicata* within the limits of a clause or even of a series of clauses; and it seems better to abandon the attempt and to leave the law as it stands, subject to the small amendments which are shown in italicised type. On the whole the section does not work badly. The clause as to foreign judgments has been remodelled but has not been substantially altered.

"Clauses 15 to 25, relating to the place of suing, are re-arranged in what is hoped is a more convenient form; they are, speaking generally, a reproduction of the existing Code.

"The next ten clauses stand in the place of 16 chapters and 200 sections of the existing Code; these clauses are an illustration of the scheme on which the Bill has been re-arranged. They state the general principles only; and the whole of the detailed provisions on which practitioners will have to work will be found in the First Schedule. It is provided in clause 26 that every suit shall be instituted by the presentation of a plaint. This is a fundamental part of our Civil Procedure. The provisions as to the form of plaint, and the presentation, rejection, and so on of pleadings are minor matters and they have been placed in the Rules. Clause 27 gives a general power to issue summonses to defendants; and clauses 28 and 29 provide for service of summons outside the province in which the Court of issue is situated. Clause 30 sums up the general powers of the Court in regard to discovery and the summoning of witnesses. These again are carried out in detail in the Rules. Clauses 31 and 32 are merely ancillary to 30. Clause 33 lays down that after a case has been heard there must be judgment and a decree on that judgment. This again is fundamental and no change should be allowed. Clause 34 deals with interest, a matter which can hardly be relegated to Rules. Clause 35 lays down the general power of Courts in regard to costs.

"We have, therefore, in these ten clauses a skeleton of a suit—institution, summons, discovery, judgment, decree, interest and costs,—and the whole of the rest of the provisions are in Schedule I. I do not think that I can, with advantage, refer to the changes of detail in this Schedule. But I do desire to call the attention of Council to the new rules which have been inserted in regard to pleadings and admission. The Special Committee attach much importance to accurate pleadings; they think that a clear definition of the real points in

[6TH SEPTEMBER, 1907.] • [Mr. Richards.]

dispute in a suit is a matter of substance, because it makes for economy both of time and of expense. They also attach importance to the existence of provisions for enabling facts and documents to be admitted, thus doing away with the necessity for formal proof. The Rules on this heading have therefore been remodelled; and it is hoped that High Courts will see that they are followed by subordinate Courts. It may be that some of these provisions will be found too elaborate for some mofussil Courts; but, if that be so, it will be within the power of High Courts to withdraw them either generally or in regard to particular areas. The forms of pleadings have been brought up to date; but in regard to these forms and to the other forms in the Schedule it is fair to the Committee to observe that the time at their disposal has not permitted of their completing these forms; some of them have been inserted in the Schedule in blank. They will be printed in full before the Bill is again before the Council. I need only add in regard to the procedure in suits that special provisions have been made in regard to suits by firms and that there is power given to the High Courts to provide for summary procedure in suits for liquidated demands, such as rent or other definite sums payable under contracts. •

"I pass now, my Lord, to the subject of execution: a subject around which controversy on any amendment of Civil Procedure seems to rage most fiercely. The debate in this Council on the passing of the 1877 Code was mainly confined to this subject; and a large portion of the volumes of comments on the Bill which has just been withdrawn from this Council are filled with observations and suggestions as to execution. There is such a variety of opinions on every point that I confess I have felt a difficulty in coming to any definite conclusion. But after hearing the matter discussed at length in the Committee I feel able to suggest that the true view is that, speaking generally, the machinery of execution is good enough but that the evils, which undoubtedly exist, arise from the mode in which that machinery is worked. This seems to be established by the fact that in the Presidency-towns there is little or no difficulty in regard to execution; the Courts are not often troubled with disputes about execution within those areas. One reason for the difference may be found in the fact that service within the limited areas of the Presidency-towns is easy to effect and easy to prove: service in the large and scattered areas of the mofussil is attended with difficulties in both these respects. Indeed, my Lord, the service of process generally in the mofussil is one of the great defects of our procedure. The Committee have made a recommendation in respect of it; but it is obviously not a matter which can be cured by legislation: the remedy is with the Executive. It may be that in some districts service by post can be

[*Mr. Richards.*] [6TH SEPTEMBER, 1907.]

substituted, and power has been given for this purpose in the Bill but that can hardly be done in all districts in the mofussil. The view taken by the Committee in regard to execution is that no radical alterations are necessary; they have introduced a certain number of small changes, all tending to expedition and simplicity, but beyond that they have confined themselves to amendments of the existing provisions. The Select Committee of this Council introduced a system of execution by precepts issued to other Courts; but to that system great exception was taken and the fact that two members of the Select Committee, Mr. Justice Rampipi and the Hon'ble Mr. Whitworth, dissented on this point, lent force to those objections. The Committee, my Lord, have advised the Government of India that it would not be safe or wise to accept this procedure. A power has been given in the Bill to issue precepts for the purpose of interim attachment only, pending execution of the decree, a proposal which has the authority of the Calcutta High Court, but beyond that they have not felt it safe to go.

"Two other points deserve mention. Hitherto, some confusion has been occasioned by the fact that the Transfer of Property Act and the Code of Civil Procedure both deal with execution in mortgage-suits. In the Bill it is proposed that these proceedings should be dealt with only in the Code. Provisions have been introduced in the Rules for this purpose and the sections of the Transfer of Property Act have been repealed in consequence.

"In the present Code there are a number of sections relating to the execution of decrees by Collectors, sections which were much discussed in the debates in the Council in 1877. These sections do not apply of their own force and they have been applied only in four Provinces and in three out of those four Provinces only in certain districts. It does not seem proper therefore to cumber the general provisions of the Code with these special powers; there have been retained in the Bill some 5 clauses authorising such a transfer; the detailed provisions have been set out in a separate Schedule. They have not been included in the General Schedule of Rules because it is thought that the Executive and not the High Courts should have the superintendence of the proceedings of Collectors.

"Turning again to the Bill, my Lord, the next subject to which I wish to call attention is that of arbitration. It will be within the knowledge of Council that at the present time there are two systems of arbitration in force in India: one under the Code of Civil Procedure and the other under the Indian Arbitration Act. The difference in substance between these two

• [6TH SEPTEMBER, 1907.] • [Mr. Richards.]

enactments is not great ; the difference in form is considerable. The Committee think it is desirable that the whole subject should be dealt with in one enactment ; and they further think that arbitration is a separate subject which does not properly form part of the Code of Civil Procedure ; for these reasons they have placed the provisions in regard to arbitration in a Schedule in order that their repeal can be more easily effected. In regard to the arbitration provisions the only amendment is that relating to appeals, an explanation of which will be found in the Report.

“ Clause 91 of the Bill is new: it confers a power to bring actions in respect of public nuisances with the consent of the Advocate General, irrespective of the question whether the plaintiff has suffered special damage. At the present time it is necessary for anyone who institutes a suit in respect of the stoppage of a public way or injury to other public rights, to prove that he has himself suffered damage beyond that which he has suffered as a member of the public, otherwise the suit will not lie. The form of action by the Attorney General on the relation of parties has not been adopted in India. It has been represented to us that some right of action should be given in these cases irrespective of the question of damage, and for that reason we have inserted this clause.

“ There is a note in the Report on the clauses relating to Public Charities to which I desire to invite the attention of Council. There is a considerable feeling that some greater control should be exercised over charitable funds. In the case of temples particularly it is said that there are large funds which are at present spent on no useful object ; they are more than are necessary for the upkeep of the temples or for the conduct of worship there ; and the suggestion is commonly made that these funds might be put to some purpose of greater benefit to the community. The present Code gives powers to bring suits for the removal of trustees, for accounts, for schemes and so on ; but it is urged that there are difficulties in the way of discovering the true position of such funds, and that some power is required for that purpose. The Committee have felt, my Lord, that this is a matter which should be in the main determined by the communities interested ; and they have contented themselves with calling attention to the point.

“ The next subject dealt with in the Bill is the important one of Appeals, and in regard to that I have little to say, because in fact the provisions remain much as they are in the present Code. No one can doubt that the multiplicity of appeals in India is an evil. On the other hand, there is a strong feeling among the public that it would be an injustice to deprive them of the



[*Mr. Richards.*] • [6TH SEPTEMBER, 1907.]

right of obtaining the decision of the highest tribunals. I hope, my Lord, that the time will come, and I believe confidently that it is coming, when by the improvement of the lower Courts this feeling will subside. But for the present it is a factor which must be taken into account, and I think that it is wise to leave matters alone for the present.

"I have already explained the nature of the rule-making power which is dealt with in Part X of the Bill; and in regard to Part XI (Miscellaneous), I would only call attention to clauses 145 and 148 to 150, which widen the discretion of Courts. They confer powers to enlarge time and to amend written proceeding; and they recognize the inherent powers of the Court to make such orders as may be necessary for the ends of justice or to prevent abuse of the process of the Court. In these ways greater elasticity will, it is hoped, be of benefit.

"These, my Lord, are the chief amendments. They will be found discussed in detail in the papers which will be circulated with this Bill; and they will, no doubt, receive that careful criticism from the profession and the public which is of such value to the Government of India. I would only remind our critics that two former Bills have already been circulated on this subject, and that every single provision of the Code of Civil Procedure has been subjected to comment on those occasions: I would, therefore, ask them to confine their criticisms, so far as may be, to the more important matters which are dealt with in the first part of the Report.

"It is impossible, my Lord, to frame any Bill on so contested a subject which would defy every criticism. The Code of Civil Procedure is the longest Act on our Statute Book and it can hardly be hoped that in framing an amending Act of that length there should be no errors or no omissions. But the Government of India believe that this Bill is framed on the right principles; they believe that it is a considerable step in advance, and that it should effect a real improvement in the procedure of our Civil Courts.

"My Lord, I will not formally make this motion until I have expressed the sincere thanks of the Government of India to those gentlemen who were associated with me on the Special Committee, for the invaluable help they have given in the revision of this Bill. They have brought to the consideration of it great learning and wide experience, and they have devoted their time and their abilities without stint to the public service. If there be good in the Bill it is due, my Lord, mainly to them."

[6TH SEPTEMBER, 1907.] [*Dr. Rashbehary Ghose.*]

The Hon'ble DR. RASHBEHARY GHOSZ said:—"My Lord, the learned Law Member has so fully explained the leading provisions of the Bill that I need not detain the Council more than a few minutes. As the Special Committee observe in their report, experience has shown that the present Code of Civil Procedure calls for amendment for the most part in matters of detail which cannot be stereotyped in a code without serious risk of paralysing the action of the Court in the administration of justice. In England, there is no Code of Civil Procedure properly so called but the provisions in the Judicature Acts supplemented by the rules of the Supreme Court, which may be varied without the intervention of the legislature, very efficiently supply its place. Principles are thus isolated from details, which are regulated by statutory rules made by competent authority; and this is the tendency of all modern legislation, which incorporates in an Act only broad general rules, leaving the details to be worked out on these rules. For devolution is now in the air and is about us everywhere; the Council Chamber, where we are assembled, not excepted. In the Bill now before us, this principle has been followed; and I have every reason to think that this new departure, which marks an important advance in codification and avoids the fatal mistake of crystallising what ought to be fluent, will be welcomed by every lawyer; except possibly some inglorious Eldon to whom all reform is hateful. I do not, however, deny that there may be room for argument whether a particular provision should be contained in the body of the Code or relegated to rules, for it is not always easy to draw the line correctly.

"I should add that the Special Committee carefully avoided any departure from the Code of 1882 except where experience has suggested improvements or a change has been called for by competent authority. A brief account of these alterations will be found in the notes in the second part of their report, while the more important alterations are discussed in the first part. It is unnecessary to go through them in detail and I will content myself with saying that, though no drastic alterations have been made in the existing Code, many obscurities would now be removed, doubts resolved, and some inconsistencies harmonised,—inconsistencies, if not in the Code, at least, in the case-law, in which the true meaning of some of its provisions has been obscured rather than elucidated. I may also be permitted to add that the subject of the execution of decrees received the special attention of the Committee and though they did not see their way to any very drastic changes in the present system, I trust that the new provisions relating to execution would enable any diligent creditor to reap the fruits of his judgment without unnecessary delay. He would, for example, be entitled to apply for immediate execution in every

[*Dr. Rashbehary Ghose; the President.*] [6TH SEPTEMBER, 1907.]

case where the decree is for the payment of money ; while the judgment-debtor's house would no longer be a castle from which he can hurl defiance at his creditors. The Bill also makes provision for an interim attachment of the debtor's property outside the jurisdiction of the Court and affords facilities for the levy of execution on salaries as well as on partnership property, which are not now enjoyed by an execution-creditor. Again, the judgment-debtor may not, where a decree for an injunction has been obtained against him, defeat or delay execution by wilful disobedience. The right to proceed summarily against ancestral property in the hands of the legal representative of a deceased debtor has also been now placed on a secure footing. Other changes have been made in the law relating to execution, but I do not wish to occupy the Council with them and would only draw attention to Order XXXIV, which deals with suits relating to mortgages. The incorporation of this Order in the Code will, I am sure, be welcomed by every one who is familiar with the almost endless controversies which have gathered round the applicability of the provisions of the Code of Civil Procedure to the enforcement of decrees for sale under the Transfer of Property Act.

"One word more. It has been said of the English law that it is a 'codeless myriad of precedents'—a 'wilderness of single instances'; but Indian experience shows that even a code may soon be buried in an intractable tropical jungle of case-law unless the axe is vigorously applied by the legislature from time to time."

His Excellency THE PRESIDENT said:—"I am sure that my Hon'ble Colleagues will agree with me that we all owe our thanks to the Hon'ble Mr. Erle Richards, and to the Committee over which he has so ably presided, for the time and trouble which they have devoted to their work and for the Report which they have placed before us. I also feel sure that my Hon'ble Colleagues are very grateful to the Hon'ble Mr. Erle Richards for the able manner in which he has explained the Bill to the Council."

The motion was put and agreed to.

The Hon'ble MR. RICHARDS introduced the Bill.

The Hon'ble MR. RICHARDS moved that the Bill, together with the Statement of Objects and Reasons relating thereto, be published in the Gazette of India in English, and in the local official Gazettes in English and such other languages

[6TH SEPTEMBER, 1907.] [Mr. Richards.]

as the Local Governments think fit.

The motion was put and agreed to.

The Council adjourned to Friday, the 27th September, 1907.

T. W. RICHARDSON,

Offg. Secretary to the Government of India,

Legislative Department.

SIMLA;

The 6th September, 1907. }



*Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Indian Councils Acts, 1861 and 1892 (24 & 25 Vict., c. 67, and 55 & 56 Vict., c. 14).*

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The Council met at the Viceregal Lodge, Simla, on Friday, the 27th September, 1907.

PRESENT :

His Excellency the Earl of Minto, P.C., G.C.M.G., G.M.S.I., G.M.I.E., Viceroy and Governor General of India, *presiding*.

His Honour Sir Denzil Ibbetson, K.C.S.I., Lieutenant-Governor of the Punjab.

His Excellency General Viscount Kitchener of Khartoum, G.C.B., O.M., G.C.M.G., Commander-in-Chief in India.

The Hon'ble Mr. H. Erie Richards, K.C.

The Hon'ble Mr. E. N. Baker, C.S.I.

The Hon'ble Major-General C. H. Scott, C.B., R.A.

The Hon'ble Sir Harvey Adamson, K.T., C.S.I.

The Hon'ble Mr. J. F. Finlay, C.S.I.

The Hon'ble Mr. J. O. Miller, C.S.I.

The Hon'ble Mr. S. Ismay, C.S.I.

The Hon'ble Tikka Sahib Ripudaman Singh of Nabha.

The Hon'ble Dr. Rashbehary Ghose, C.I.E., D.L.

The Hon'ble Mr. T. Gordon Walker, C.S.I.

LOCAL AUTHORITIES LOAN (AMENDMENT) BILL.

The Hon'ble MR. BAKER presented the Report of the Select Committee on the Bill further to amend the Local Authorities Loan Act, 1879. He said :—  
“The Report is self-contained, and I do not think I need make any remarks regarding it.”

## INDIAN TRUSTS (AMENDMENT) BILL.

[*Sir Harvey Adamson.*] [27TH SEPTEMBER, 1907.]

## INDIAN TRUSTS (AMENDMENT) BILL.

The Hon'ble SIR HARVEY ADAMSON moved for leave to introduce a Bill further to amend the law relating to Private Trusts and Trustees. He said :—  
 "I need add nothing to the Statement of Objects and Reasons, which fully explains the scope of the Bill."

The motion was put and agreed to.

The Hon'ble SIR HARVEY ADAMSON introduced the Bill.

The Hon'ble SIR HARVEY ADAMSON moved that the Bill, together with the Statement of Objects and Reasons relating thereto, be published in the Gazette of India in English, and in the local official Gazettes in English and in such other languages as the Local Governments think fit.

The motion was put and agreed to.

The Council adjourned to Friday, the 18th October, 1907.

T. W. RICHARDSON,

*Offg. Secretary to the Government of India,  
 Legislative Department.*

SIMLA;

*The 27th September, 1907.* }

*Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Indian Councils Acts, 1861, and 1892 (24 & 25 Vict., c. 67, and 55 & 56 Vict., c. 14).*

The Council met at the Viceregal Lodge, Simla, on Friday, the 18th October, 1907.

#### PRESENT :

- His Excellency the Earl of Minto, P.C., G.C.M.G., G.M.S.I., G.M.I.E., Viceroy and Governor General of India, *presiding*.
- His Excellency General Viscount Kitchener of Khartoum, G.C.B., O.M., G.C.M.G., Commander-in-Chief in India.
- The Hon'ble Mr. H. Erle Richards, K.C.
- The Hon'ble Mr. E. N. Baker, C.S.I.
- The Hon'ble Major-General C. H. Scott, C.B., R.A.
- The Hon'ble Sir Harvey Adamson, Kt., C.S.I.
- The Hon'ble Mr. J. F. Finlay, C.S.I.
- The Hon'ble Mr. J. O. Miller, C.S.I.
- The Hon'ble Mr. S. Ismay, C.S.I.
- The Hon'ble Tikka Sahib Ripudaman Singh of Nabha.
- The Hon'ble Dr. Rashbehary Ghose, C.I.E., D.L.
- The Hon'ble Mr. T. Gordon Walker, C.S.I.

#### LOCAL AUTHORITIES LOAN (AMENDMENT) BILL.

The Hon'ble MR. BAKER moved that the Report of the Select Committee on the Bill further to amend the Local Authorities Loan Act, 1879, be taken into consideration. He said :—"When I introduced this small Bill last cold weather I explained its object and scope : and at the last meeting of Council, in presenting the Report of the Select Committee, I pointed out that it was self-contained. I will therefore not take up the time of Council by making any observations upon it now."

The motion was put and agreed to.

The Hon'ble MR. BAKER moved that the Bill, as amended, be passed.

The motion was put and agreed to.



[18TH OCTOBER, 1907.]      [Sir Harvey Adamson.]

### PREVENTION OF SEDITIOUS MEETINGS BILL.

The Hon'ble SIR HARVEY ADAMSON introduced the Bill to make better provision for the prevention of meetings likely to promote sedition or to cause a disturbance of public tranquillity. He said :—" My Lord, this Bill is founded on, and is a sequel to, the Regulation of Meetings Ordinance 1907. The Ordinance was enacted in May last on account of the acute disorder that prevailed in the Punjab and in Eastern Bengal. The limit of the life of an Ordinance is six months, and it will in natural course expire on the 10th November. We had hoped that the need for an enactment of this kind would cease before the Ordinance expired, but in this hope we have been disappointed. It has become painfully apparent that persistent attempts continue to be made to promote sedition and to cause such ill-feeling as is calculated to disturb the public tranquillity, and that these attempts are not confined to the two Provinces which came under the scope of the Ordinance. The Bill which I have introduced extends to the whole of British India, but its operation is restricted to such provinces as the Governor General in Council may from time to time notify, and even within these provinces the operation is restricted to such areas as the Local Government may declare to be proclaimed areas. It is not necessary for me to reiterate the provisions of the Ordinance which has already been before the public for some months. Suffice it to say that the Ordinance gave power to prohibit only such meetings as, on a scrutiny of the circumstances, a responsible officer believed to be likely to promote sedition or disaffection or to cause a disturbance of the public tranquillity. And a chief object of the Ordinance was not to prohibit public meetings but to insure that our officers should have admission to all public meetings so that evidence might be available if the proceedings were unlawful. These also are the principles of the Bill. I will content myself to-day with explaining the chief points in which the present Bill differs from the Ordinance. The Ordinance has been in operation sufficiently long to give ample opportunity of estimating the measure of its success and the measure of its failure. It has been urged upon us by both of the Local Governments which administered it that a main difficulty lies on the threshold inasmuch as the term " public meeting " was not defined. It is difficult and even impossible to say in general terms where an exact line of discrimination lies between public and private meetings. Nevertheless, though it may be impossible to frame a definition that is in all respects complete, the experience of the past few months has shown that if the object of the Bill, the regulation or prevention of meetings harmful to the peace of the country, is to be achieved at all, some indication must be given both to our officers and to the courts of

[Sir Harvey Adamson.]

[18TH OCTOBER, 1907.]

the considerations that will enable them to determine whether a particular meeting is public or private. As instances of the evasion of the object of the Ordinance I may mention that meetings of some hundreds of persons have been held without notice in private places, which to all intents and purposes were public meetings, but from which our officers were excluded. In other cases admission has been given only to such persons as were passed by the door-keepers. In the definition of "public meeting", which we have framed as clause 3 of the Bill, the first sub-clause, which is the main part of the definition, is sufficiently wide to embrace all public meetings that are likely to be detrimental to the public peace. This is the chief requirement in a Bill whose object is to counteract a dangerous mischief, and which is intended to meet only exceptional circumstances and to be applied only in exceptional places, and under which the public are safe-guarded by the provision that prohibition is always subject to the discretion of officers of high standing and of large experience. But I admit that there is great difficulty in framing a definition which is at once wide enough and yet not too wide, and I shall not be indisposed to consider criticisms of the definition in Select Committee. The second sub-clause is explanatory and guards against an attempted evasion which I have already mentioned, by declaring that a meeting is not necessarily excluded from the definition merely because it is held in a private place or because admission has been restricted. The third sub-clause creates a presumption which may be disproved, namely, that a meeting held in a proclaimed area and consisting of more than twenty persons shall *prima facie* be presumed to be a public meeting. If the danger to the public tranquillity is so great as to render it necessary to notify a place as a proclaimed area, it is reasonable that law-abiding persons residing within that area should be prepared to suffer some slight inconvenience for the public good, and we consider that it is not too much to require such persons to take the trouble to give notice or obtain formal permission if within the proclaimed area they desire to hold a public meeting for any political and lawful object.

"Besides the extension and the definition the only difference of substance between the Ordinance and the Bill is that in the latter we have introduced a clause prohibiting under a penalty the delivery of speeches likely to cause disturbance or ill-feeling or speeches on political matters, or the exhibition of writing relating to such subjects, in public places in proclaimed areas, without the permission of the proper authority. This is simply a necessary corollary of the power to prohibit public meetings.

"I may add that the Ordinance required that seven days' notice should be given before a public meeting could be held. With the view of meeting public convenience we have in the Bill added the alternative of obtaining permission.

[18TH OCTOBER, 1907.]

[Sir Harvey Adamson.]

" I will now refer to the somewhat unusual nature of the procedure that has been adopted in respect of this Bill. The Bill was published in the *Gazette of India* on the 12th October with an intimation that it would be introduced to-day. To-day it has been introduced and I am presently going to move that it be referred to a Select Committee, with instructions to report within a week. I propose to present the Report of the Select Committee on the 25th October, and to move on the 1st November that the report be taken into consideration. The Bill has thus the appearance of having been crowded rather hurriedly into the end of a legislative session, and I will explain the reason. In the first place we had hoped, as I have said, that a temporary measure of repression would be sufficient to meet the crisis of disorder, and that it would not become necessary to resort to permanent legislation. In the second place we put some trust in measures that were the opposite of repressive. The Government of India have all along recognized that unrest is not solely the outcome of seditious agitation, but has its basis on the natural aspirations of educated Indians. To meet these aspirations and to associate Indians more closely in the administration of the country we formulated a large and generous scheme of reform which is now before the public for criticism." With this earnest of our desire to meet grievances we had hoped that the necessity for repression would cease. But as time rolled on it became more and more apparent that such hopes were doomed to disappointment, that we had to deal with a section of irreconcilables, and that it would be necessary to continue the principles of the Ordinance as substantive law. With all our hopes, however, we had not lost sight of the possibility that such a measure might be necessary. Ordinances are enacted in times of emergency, and though it may be easy to see the general lines of the remedy, there is little time or opportunity for a complete settlement of details. It might be expected therefore that the Regulation of Meetings Ordinance, somewhat hurriedly drawn and designed to meet circumstances that had not yet fully developed, would not be free from imperfections. After allowing to the two Local Governments which had administered the Ordinance sufficient time to enable them to ascertain by actual experience its merits and defects, we obtained reports from them and at the same time elicited the opinions of other Local Governments, and on these reports and opinions we framed the Bill which I have introduced to-day. The recognition of a necessity for legislation involved also a recognition of the necessity that there should be no *hiatus*, and that the substantive law should be ready to come into operation when the Ordinance expired. These are our reasons for legislating in Simla, and for the seemingly hasty nature of our operations. But the Bill is a short one, comprising only a few clauses. The whole of it, with the exception of two clauses of substance, has been before the public

[Sir Harvey Adamson; Dr. Rashbehary Ghose.] [18TH OCTOBER, 1907.]

for over five months. From the date of its publication in the *Gazette* to the date on which it will be finally considered an interval of twenty days has been allowed. I am confident that the time is sufficient for a full consideration of the merits of the Bill, but I regret the inconvenience that has been necessarily caused to Hon'ble Members who reside in the plains and who may wish to come to Simla to take part in the discussion.

"I have no desire to disguise the fact that the Bill is a repressive measure of considerable potency. The evil that has been done and is being done by disloyal agitators will, I trust, make it abundantly clear to all who have the interests of peace and order at heart that in the present condition of India a strong measure is necessary."

The Hon'ble SIR HARVEY ADAMSON moved that the Bill be referred to a Select Committee consisting of the Hon'ble Mr. Richards, the Hon'ble Mr. Baker, the Hon'ble Dr. Rashbehary Ghose, the Hon'ble Mr. Gokhale and the mover, with instructions to report at the next meeting of the Council. He said :—"My Lord, the reference of a Bill to a Select Committee marks the stage when the principle of the measure ought to be discussed and affirmed or rejected. The Hon'ble Dr. Rashbehary Ghose, who I regret to say is opposed to the Bill, has suggested to me that as the opposition have not fully mustered to-day, the discussion of the principle of this Bill might with convenience be postponed to the stage when the Report of the Select Committee is taken into consideration. I fully recognize that Hon'ble Members have been rather hurried by the procedure that has been adopted, and I need scarcely say that I am most willing to consult their convenience, and to give them every opportunity for a full discussion of the Bill. I will therefore be glad, with Your Lordship's permission, to accept the suggestion made by the Hon'ble Member, and to permit the discussion of the principle of the Bill to be postponed to the stage when the Report of the Select Committee is taken into consideration."

The Hon'ble DR. RASHBEHARY GHOSE said :—"My Lord, though I am strongly opposed to the Bill, I do not propose to speak on it to-day; but reserve my right to do so at a subsequent stage, when other unofficial members are expected to be present and to take part in the debate."

The motion was put and agreed to.

[18TH OCTOBER, 1907.]

[*Sir Harvey Adamson.*]

## LEGAL PRACTITIONERS (AMENDMENT) BILL.

The Hon'ble SIR HARVEY ADAMSON moved for leave to introduce a Bill further to amend the Legal Practitioners Act, 1879. He said:—"My Lord, the Bill which is referred to in the motion standing in my name is intended to give effect to two proposals affecting legal practitioners in this country.

"One of these proposals relates to the fees which are at present charged to Vakils and Attorneys for the liberty of practising as pleaders in the jurisdiction of some High Court other than the Chartered High Court on the rolls of which they are entered. I may explain to the Council that Vakils and Attorneys become such by entry on the rolls of a Chartered High Court, and that, on their first enrolment, these gentlemen pay the consolidated fee prescribed by the Indian Stamp Act, which amounts in the case of a Vakil to Rs. 500 and in the case of an Attorney to Rs. 250. The Stamp Act expressly exempts them from any further fee for the privilege of being enrolled as Vakils or Attorneys, respectively, in another Chartered High Court. But some of those who become Vakils and Attorneys may not for various reasons wish to practise as such in a Chartered High Court. They may wish to practise as pleaders in a non-Chartered High Court (such as the Chief Court of the Punjab), or in the Courts subordinate to some High Court other than the Chartered High Court in which they are enrolled. The point is that the privilege of so practising as pleaders, if it be obtained, is an expensive privilege and involves the payment of annual fees in accordance with the scale prescribed by section 25 of the Legal Practitioners Act. One object of the Bill is to do away with these annual payments and so to remove the apparent anomaly in the law which I have indicated and which seems to have been felt as a hardship by members of the profession, more especially in the Punjab, in Burma and in Oudh. The attention of the Government of India, I may add, was recently directed to the matter by a communication received from the Judicial Commissioner of the last mentioned Province through the Government of the United Provinces.

"As to the second proposal, it is thought that the time has come when the privilege conferred on Advocates generally and on the Vakils of the Chartered High Courts by section 4 of the Legal Practitioners Act may be extended to pleaders enrolled in the Chief Court of the Punjab. In other words, it is proposed that pleaders who ordinarily practise as pleaders of the Chief Court shall, subject to the qualifications specified in the section, enjoy the right of occasional audience in other Courts in British India, to which circumstances may

[*Sir Harvey Adamson.*] [18TH OCTOBER, 1907.]

from time to time take them. This proposal is embodied in clause 2 of the Bill which I now ask leave to introduce."

The motion was put and agreed to.

The Hon'ble SIR HARVEY ADAMSON introduced the Bill.

The Hon'ble SIR HARVEY ADAMSON moved that the Bill, together with the Statement of Objects and Reasons relating thereto, be published in English in the Gazette of India and in the local official Gazettes.

The motion was put and agreed to.

The Council adjourned to Friday, the 25th October, 1907.

T. W. RICHARDSON,

*Offg. Secretary to the Government of India,  
Legislative Department.*

SIMLA;

*The 18th October, 1907.* }



*Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Indian Councils Acts, 1861 and 1892 (24 & 25 Vict., c. 67, and 55 & 56 Vict., c. 14).*

The Council met at the Viceregal Lodge, Simla, on Friday, the 25th October, 1907.

PRESENT :

His Excellency the Earl of Minto, P.C., G.C.M.G., G.M.S.I., G.M.I.E., Viceroy and Governor General of India, *presiding*.

His Honour Sir Denzil Ibbetson, K.C.S.I., Lieutenant-Governor of the Punjab.

His Excellency General Viscount Kitchener of Khartoum, G.C.B., O.M., G.C.M.G., Commander-in-Chief in India.

The Hon'ble Mr. H. Erie Richards, K.C.

The Hon'ble Mr. E. N. Baker, C.S.I.

The Hon'ble Major-General C. H. Scott, C.B., R.A.

The Hon'ble Sir Harvey Adamson, Kt., C.S.I.

The Hon'ble Mr. J. F. Finlay, C.S.I.

The Hon'ble Mr. J. O. Miller, C.S.I.

The Hon'ble Mr. S. Ismay, C.S.I.

The Hon'ble Tikka Sahib Ripudaman Singh of Nabha.

The Hon'ble Dr. Rashbehary Ghose, C.I.E., D.L.

The Hon'ble Mr. Gopal Krishna Gokhale, C.I.E.

The Hon'ble Mr. T. Gordon Walker, C.S.I.

NEW MEMBER.

The Hon'ble MR. GOPAL KRISHNA GOKHALE took his seat as an Additional Member of Council.

PREVENTION OF SEDITIOUS MEETINGS BILL.

The Hon'ble SIR HARVEY ADAMSON presented the Report of the Select Committee on the Bill to make better provision for the prevention of meetings likely



[*Sir Harvey Adamson.*]

[25TH OCTOBER, 1907.]

to promote sedition or to cause a disturbance of public tranquillity. He said :—" My Lord, I may add a few explanatory words to the Report of the Select Committee. We have removed the qualifying words at the end of the first sub-clause of the definition of ' public meeting ' to its more appropriate place in clause 4, the effect being to limit the presumption in the last sub-clause of the definition to the significance that a meeting of more than twenty persons shall be presumed to be a meeting which is open to the public until the contrary is proved. As the definition originally ran the presumption also extended to the fact that the meeting was one at which certain subjects were discussed. In removing these words to their appropriate place, we have altered the language so as to make it clear that a meeting which is a private meeting does not become a public meeting merely because some person or persons present happen to discuss political or other kindred subjects.

" It has been represented very strongly to us that much inconvenience will be caused if the requirements of notice or permission are applied indiscriminately to all public meetings held for specified purposes. For instance, if the provision were construed rigidly, it might be necessary to give notice or obtain permission before holding municipal meetings in a proclaimed area. To meet this objection, we have added words exempting from the provisions as to notice or permission certain classes of meetings and generally any class which the Local Government may by general or special order exempt. To suit public convenience, we have reduced the term of notice from seven days to three. By slightly altering clause 5, we have made it clear that prohibition can be applied only to public meetings. In the clause that relates to the delivery of speeches in public places in proclaimed areas, we have omitted the words relating to the distribution of writing or printed matter, as the power given in respect thereof appeared to be too wide and, in any case, unnecessary. The object of the Bill is to meet evils which may occur in exceptional places at exceptional times. So far as can be judged at present it does not appear to be necessary that a repressive measure for this purpose should remain permanently on the Statute-book. We have accordingly limited the operation of the Bill to three years; and, in order further to clearly show the intention that every executive action taken under the Bill shall lack the element of permanency, we have provided that all notifications declaring places to be proclaimed areas shall, unless specially renewed, expire after a period of six months. Our

*PREVENTION OF SEDITION MEETINGS BILL.*

31

[25TH OCTOBER, 1907.]

[*Sir Harvey Adamson.*]

Hon'ble Colleagues the Hon'ble Dr. Rashbehary Ghose and the Hon'ble Mr. Gokhale have, independent of their general objection to the Bill, dissented in certain particulars from the Report; and their minute of dissent is attached to it."

The Council adjourned to Friday, the 1st November, 1907.

T. W. RICHARDSON,

*Offg. Secretary to the Government of India,*

*Legislative Department.*

SIMLA:

*The 25th October, 1907.*



*Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Indian Councils Acts, 1861 and 1892 (24 & 25 Vict., Cap. 67, and 55 & 56 Vict., Cap. 14).*

The Council met at the Viceregal Lodge, Simla, on Friday, the 1st November, 1907.

PRESENT :

His Excellency the Earl of Minto, P.C., G.C.M.G., G.M.S.I., G.M.I.E., Viceroy and Governor General of India, *presiding*.

His Excellency General Viscount Kitchener of Khartoum, G.C.B., O.M., G.C.M.G., Commander-in-Chief in India.

The Hon'ble Mr. H. Erle Richards, K.C.

The Hon'ble Mr. E. N. Baker, C.S.I.

The Hon'ble Major-General G. H. Scott, C.B., R.A.

The Hon'ble Sir Harvey Adamson, Kt., C.S.I.

The Hon'ble Mr. J. F. Finlay, C.S.I.

The Hon'ble Mr. J. O. Miller, C.S.I.

The Hon'ble Mr. S. Ismay, C.S.I.

The Hon'ble Tikka Sahib Ripudaman Singh of Nabha.

The Hon'ble Dr. Rashbehary Ghose, C.I.E., D.L.

The Hon'ble Mr. Gopal Krishna Gokhale, C.I.E.

The Hon'ble Mr. T. Gordon Walker, C.S.I.

QUESTIONS AND ANSWERS.

The Hon'ble MR. GOKHALE asked :—

“(a) Are the Government aware that on 9th July last, in reply to a question by Mr. Redmond, asking whether the relatives of Lala Lajpat Rai were allowed to see him at any time, the Secretary of State for India said :—‘There would, I presume, be no objection to their doing so under such supervision as would ensure that no mischievous or undesirable communications were made.’?”

“(b) Are the Government aware that Lala Dhanpat Rai, a younger brother of Lala Lajpat Rai, applied on 19th July to the Superintendent of Jails, Mandalay, for permission to see Lala Lajpat Rai under such restrictions as the authorities

[1ST NOVEMBER, 1907.] [Mr. Gokhale, Sir Harvey Adamson.]

in charge might impose, and in reply received a letter from the Government of Burma, dated 3rd August, referring him to the Government of the Punjab in the matter; that thereupon Lala Dhanpat Rai submitted on 22nd August an application to the Government of the Punjab for permission to see his brother; and that the Punjab Government in their reply, dated 2nd September, refused such permission, asking him to renew his application, if he thought fit, at the close of the current year?

"(c) In view of the statement made by the Secretary of State for India in Parliament quoted above, will the Government be pleased to state why permission has been refused by the Punjab Government to Lala Dhanpat Rai to see his brother?"

The Hon'ble SIR HARVEY ADAMSON replied:—"The Government of India are aware of the answer given by the Secretary of State for India to Mr. Redmond on the 9th July last. The Punjab Government refused permission to Lala Dhanpat Rai to see his brother because at that time it was considered undesirable that any such interview should take place."

The Hon'ble MR. GOKHALE asked:—

"(a) Are the Government aware that on 9th July last, in reply to a question by Mr. Mackarness, the Secretary of State for India stated in the House of Commons that he presumed that Lala Lajpat Rai was at liberty to communicate with his legal advisers?"

"(b) Are the Government aware that at the end of June last the Simla correspondent of the *Daily Express* wired to that paper, as coming from 'a highly placed official', a story of an interview which Lala Lajpat Rai was alleged to have obtained with the Amir of Afghanistan for submitting to His Majesty 'a plot for the delivery of India from the British Raj'; that on this telegram being reproduced in this country Lala Lajpat Rai's son and some of his friends wished to bring on behalf of Lala Lajpat Rai a civil action for defamation in England against the conductors of the *Daily Express*, and with a view to obtain the necessary power-of-attorney from Lala Lajpat Rai instructed Messrs. Dixit and Dhanjishah, Solicitors, Bombay, to communicate with him; that thereupon Mr. Dixit wrote on 9th September last to Lala Lajpat Rai in the matter; that delivery of this letter was taken and postal acknowledgment signed by the Assistant Superintendent of Jails of Mandalay, but that the letter was not delivered to Lala Lajpat Rai; and in reply to an inquiry from Mr. Dixit, the Superintendent of Jails, Mandalay, wired back to say that the letter in question had not been delivered to the prisoner?"

[*Sir Harvey Adamson; Mr. Gokhale.*] [1ST NOVEMBER, 1907.]

"(c) In view of the statement made by the Secretary of State for India quoted above and in view also of the fact that even ordinary criminals in jails are allowed to give instructions to their relatives and friends for bringing civil actions in their name, will the Government be pleased to state why Mr. Dixit's letter was withheld from Lala Lajpat Rai?"

The Hon'ble SIR HARVEY ADAMSON replied :—"The Government of India are aware of the reply given to Mr. Mackarness by the Secretary of State for India on the 9th July last. If Lajpat Rai expresses a desire to consult with his own Solicitors permission to do so will be given. The Government of India have no knowledge of the circumstances in which the statement referred to in head (b) of the question appeared in the *Daily Express*. Applications have been received from two firms of Solicitors for permission to communicate with Lajpat Rai for the purpose of procuring from him authority to institute suits. The Government of India have not complied with either application. They do not consider it expedient that facilities should be given to third parties to induce political prisoners to engage in litigation."

The Hon'ble MR. GOKHALE asked :—"Will the Government be pleased to state what monthly allowance Lala Lajpat Rai receives for his personal expenses, apart from the cost of the guard and other arrangements for his custody?"

The Hon'ble SIR HARVEY ADAMSON replied :—"The allowance sanctioned for Lala Lajpat Rai's personal expenses is Rs. 200 a month."

The Hon'ble MR. GOKHALE asked :—"In view of the decision of Mr. Martineau in the case of Lala Hansraj and other Pleaders at Rawalpindi, will the Government be pleased to consider the desirability of reviewing afresh the information on which they have acted in the case of Lala Lajpat Rai?"

The Hon'ble SIR HARVEY ADAMSON replied :—"The reply to the question is in the negative."

The Hon'ble MR. GOKHALE asked :—"Will the Government be pleased to state how far the question of separating Judicial from Executive functions has advanced?"

The Hon'ble SIR HARVEY ADAMSON replied :—"A definite scheme for the experimental separation of Judicial and Executive functions in a few selected districts of certain provinces is now under the consideration of the Government of India, and it is probable that the Local Governments concerned will be consulted on the subject shortly."

36 *QUESTIONS AND ANSWERS; PREVENTION OF SEDITIOUS MEETINGS BILL.*

[1ST NOVEMBER, 1907.] [*Mr. Gokhale; Sir Harvey Adamson.*]

The Hon'ble MR. GOKHALE asked :—“ Will the Government be pleased to state how far the question of making primary education free in the country has advanced ? ”

The Hon'ble SIR HARVEY ADAMSON replied :—“ The question has been referred to Local Governments for opinion, and replies are still awaited from four of the larger provinces.”

*PREVENTION OF SEDITIOUS MEETINGS BILL.*

The Hon'ble SIR HARVEY ADAMSON moved that the Report of the Select Committee on the Bill to make better provision for the prevention of meetings likely to promote sedition or to cause a disturbance of public tranquillity be taken into consideration.

The Hon'ble MR. GOKHALE said :—“ For many years now it has been a well-established practice of this Council that no important legislation—especially of a controversial character—should be enacted at Simla, but that it should be reserved for the session at Calcutta, where alone the assistance of all Additional Members is available. This practice has behind it the authority of a clear instruction from the Secretary of State. Thirty-two years ago, on the Government of Lord Northbrook passing an important measure at Simla, Lord Salisbury, then Secretary of State for India, deemed it necessary to address a remonstrance to the Governor General in Council in the following words : ‘ In providing that laws for India should be passed at a Council consisting not only of the Ordinary Members of the Executive Government, but of Additional Members specially added for the purpose (of whom some have always been unofficial), it was the clear intention of Parliament that in the task of legislation the Government should, in addition to the sources of information usually open to it, be enlightened by the advice and knowledge of persons possessing other than official experience. Of these you were unfortunately deprived in discussing the subject in respect to which the assistance of non-official councillors is of special value.’ My Lord, it is a matter for deep regret that the Government of India should have thought it proper to depart from this wise and salutary practice in the present instance. But the absence of most Additional Members from to-day's meeting is not my only ground of complaint against the course adopted by Government. I think it is no exaggeration to say that this Bill has been received throughout the country with feelings of consternation and dismay, and yet it is being rushed through this Council in such hot haste, that practically no time has been allowed to the public to state its objections to the measure. The Hon'ble Sir Harvey Adamson, in

[Mr. Gokhale.]

[1ST NOVEMBER, 1907.]

introducing the Bill last Friday, observed : ' From the date of its publication in the *Gazette* to the date on which it will be finally considered, an interval of twenty days has been allowed. I am confident that the time is sufficient for a full consideration of the merits of the Bill.' I suppose the Hon'ble Member was indulging in a bit of cynical humour when he said this. Else, my Lord, it is not possible to understand his statement. I presume the object of publication is to give the public affected by the proposed legislation an opportunity to say what it thinks of the measure. This it can only do after it has had time to examine the provisions of the Bill, and such examination must, in fairness to Government, be made in the light of the reasons adduced by the Member in charge in introducing it. Now, my Lord, this Bill was published at Simla on 11th October, and its provisions, as telegraphed from here, appeared in the columns of the daily press of the country on the morning of the 12th. There are only seven or eight towns in the whole of India which have a daily press of their own. Of the others, the more important ones, which are served by these same dailies, have to wait for a day or two, and in some cases, for even three or four or five days, before they get their daily budget of news. The smaller towns have as a rule to content themselves with weekly newspapers only. The Hon'ble Member must therefore allow at least a week's time for any thing telegraphed from here to spread all over so vast a country as India. Then, my Lord, the Bill was introduced in this Council only on 18th October, and a telegraphic report of the Hon'ble Member's speech in introducing it appeared in the dailies only on the morning of the 19th. Allowing another week as the very least time required for the speech to penetrate into the interior of the country, it brings us down to 26th October as the earliest date by which the whole case of the Government may be assumed to have been before the people. After this, some time would be required for deliberation, for the formulation of objections and for these objections to reach the Government ; and even if a month had been allowed for this purpose, it would hardly have sufficed. Meanwhile what happens here ? The Select Committee, to whom the Bill was referred for consideration, meets on 22nd October, concludes its deliberations on 23rd, and makes its report on 24th ! Now, every one knows that once the Select Committee has made its report, the door is closed on all further modifications, and therefore for any expression of public opinion to be of the slightest value in influencing the character or details of a Bill, it must reach the Government before the Select Committee finishes its labours. It is for this reason that the Rules of this Council lay down that ordinarily a Select Committee shall not make its report sooner than three months from the first publication of a Bill in the *Gazette of India*. In the present case, the Select Committee had not the



[1ST NOVEMBER, 1907.]

[Mr. Gokhale.]

advantage of a 'single expression of public opinion to assist it; and even those few telegraphic protests, which had been received by the Government, and of which some of us had received copies independently, were not laid before the Committee. My Lord, in the face of these facts, to speak of having allowed sufficient time to the public for a full consideration of the Bill is to mock public opinion. Better far that the Hon'ble Member had said: 'The Legislature exists in India only to register the decrees of the Executive. The passage of a Bill through the Council is a mere formality, and on occasions like the present an inconvenient formality. We are facing the inconvenience in this case simply because we *must* face it. But the people may as well spare themselves the trouble of making any representations to us. For we have made up our mind and nothing they can possibly say will affect our determination to make this addition to the Statute-book. Moreover, it is not for them to reason why or to make reply. Their only business is to obey.' That the Hon'ble Member is not wholly unconscious of the fact that he has given practically no time to the public for what he calls 'a full consideration of the merits of the Bill' may be seen from his providing himself with a second line of defence. He says that though the Bill has been before the public for a few days only, the Ordinance which was promulgated in May last for the Provinces of East Bengal and the Punjab has been before the country for the last five months! He might as well have said that we had the History of Ireland before us all these years, or that we could not be altogether ignorant of what was taking place before our eyes in Russia!

"My Lord, I can imagine circumstances of such extreme urgency and such extreme gravity as to necessitate the passing of a law of this kind and passing it even in the manner the Government have adopted. Had there been an active and wide-spread movement of resistance to authority afoot in the country, if breaches of public peace had been frequent, if incitements to violence had been the order of the day, I can understand the Executive wanting to arm themselves with these vast powers of coercion. But, my Lord, can any one truthfully say that such a state of things has arisen in the country? On the contrary I assert, without fear of contradiction, that there is nothing in the circumstances of the land which constitutes even a distant approach to such a situation. It is true that there is wide-spread discontent throughout the country and very acute discontent in one or two Provinces, and to this discontent is now being added a fresh feeling of resentment—daily growing deeper and stronger—on account of the policy of repression on which the Government have embarked. But of active disaffection there is really very little anywhere, and whatever there is, is due to causes which lie almost on the surface, and should therefore be not difficult to understand. The Statement

[Mr. Gokhale.]

[1ST NOVEMBER, 1907.]

of Objects and Reasons, appended to the Bill, says: 'The occurrences of the last six months have convinced the Government of India that it is necessary, for the preservation of the public peace and for the protection of the law-abiding members of the community, to incorporate in the general law an effective measure for the prevention of seditious meetings and to take power to bring its provisions into operation in any part of India as occasion may require.' And the Hon'ble Member, in introducing the Bill, observed: 'We had hoped that the need for an enactment of this kind would cease before the Ordinance expired, but, in this hope we have been disappointed. It has become painfully apparent that persistent attempts continue to be made to promote sedition and to cause such ill-feeling as is calculated to disturb the public tranquillity, and that these attempts are not confined to the two Provinces which came under the scope of the Ordinance.' My Lord, these are serious but vague statements, and I am astonished that the Hon'ble Member has not seen the necessity of supporting them by the testimony of facts. He mentions no cases, no statistics; one general assertion that persistent attempts continue to be made to promote sedition, and he thinks he has established the need for enacting a drastic law of this kind for the whole country! With due deference, I submit this is not a fair proceeding, and the vast bulk of the people throughout India, who are perfectly law-abiding, have just cause to resent it. Let us examine the Hon'ble Member's contention a little closely. He says, first, that he had hoped that, after the expiry of the Ordinance of May last, it would be unnecessary to renew its policy in the two Provinces in which it was in force, but that in this hope he has been disappointed; and secondly, that unless that policy is extended to all the other Provinces of India, public tranquillity in those Provinces also would be in danger of being disturbed. Now, what are the facts? Let us take the Punjab first. In the whole of this Province there has been, as far as I am aware, only one public meeting since the promulgation of the Ordinance. It was held in Dehli, before Dehli was proclaimed, it was attended by both Hindus and Mahomedans, and its object was to express regret at Lala Lajpat Rai's deportation. There has been no disturbance of public tranquillity anywhere in the Province during the time. The Hon'ble Member will very probably say—'But this is all due to the Ordinance!' Assuming for a moment, for the sake of argument, that it is so, the fact remains that the Hon'ble Member has no reason to complain of any disappointment in the Punjab. Turning next to East Bengal, we find that there too, after the Hindu-Mahomedan disturbances, which led to the promulgation of the Ordinance, were over, there has been no public disturbance. There have also been no public meetings held in defiance of the Ordinance, so far at least as the public is aware. A District Conference

[1ST NOVEMBER, 1907.]

[Mr. Gokhale.]

was proposed to be held at Faridpur with the District Magistrate's permission, but on his objecting to two of the resolutions on the Agenda paper—one about the deportation of Lala Lajpat Rai, and the other about the boycott of foreign goods—the organizers thought it best to abandon the Conference. There was great public indignation and disappointment in consequence, but there was no breach of the peace. It is possible that the Secret Police have been sending up to Government reports of meetings held surreptitiously in private houses in proclaimed areas in Eastern Bengal, and indeed the Hon'ble Member says as much in his speech of 18th October. But in the first place, it is necessary to accept with great caution what the Secret Police say in their reports, as the trial at Rawalpindi and other recent events have shown. And, secondly, even assuming that such meetings have been held, there have been no breaches of the peace, and no serious harm seems to have been done; and I think in affairs of State, no less than in private life, it is often the part of wisdom to wink at things, which it is difficult to prevent and which do no serious harm to anybody. So much about the two Provinces in which the Ordinance has been in force since May last. Outside these Provinces, public disturbances have taken place only in two places in all India—one at Coconada in the Madras Presidency some time ago, and the other at Calcutta more recently. The former had its origin in an assault made by a European officer on a student for shouting the words *Bande Mataram*. In the latter, the police themselves are alleged to have been the aggressors. But whatever the origin of these two disturbances, and however much one may deplore them, they certainly do not furnish any justification for saddling the whole country with such a measure as the Council is asked to pass into law to-day. As regards public meetings in the different Provinces, with the exception of some held in Calcutta, I do not think that they have been of a character to attract special public attention. Strong things have no doubt been said at some of these against the Government and even wild things have probably been said at a few, but this has been largely due to the measures of repression which the Government have thought fit to adopt since May last. My Lord, I do not think there is really anything in the situation of the country which may not be dealt with adequately by the ample powers which the Government already possess under the existing law, if those powers are exercised with tact, judgment and firmness. In any case there is nothing of such urgency and such gravity as to require an immediate resort to the dangerous provisions of this Bill and to justify its being rushed through this Council in this manner. The Hon'ble Member says that as the Ordinance of May last expires on 10th November, unless the Bill is passed before that date, there would be a *hiatus*. This applies only to Eastern Bengal and the Punjab, and of these, the Punjab

## PREVENTION OF SEDITIOUS MEETINGS BILL.

41

[Mr. Gokhale.] • • [1ST NOVEMBER, 1907.]

has been so absolutely quiet that the Government of India may well give it a chance of being again under the ordinary law. And as regards East Bengal, if the situation showed signs of real anxiety, the Government could issue another Ordinance, or legislation might be undertaken in the Local Legislative Council. In such matters it seems to me far fairer that if there must be legislation, it should be undertaken by Provincial Governments in their own Councils. Such a course will ensure a proper discussion, with full knowledge on both sides, of all the special circumstances of a Province, on which the Executive base their demand for extraordinary powers. It will also obviate the risk of enacting coercive legislation for those Provinces for which the ordinary law ought to suffice.

• "My Lord, the bulk of the educated classes in India feel, and feel keenly, that during the last six months, their aims and their activities have been most cruelly misrepresented before the British public, and that they have not had fair play during the time. Exaggerated importance has been attached to the utterances of a few visionaries, and advantage has been taken of every accidental circumstance to represent an agitation for reform and for the removal of specific grievances as a movement of revolt. The malignant activity of certain unscrupulous Press correspondents has been largely responsible for achieving this result, but unfortunately colour has been lent to their stories by the series of repressive measures which the Government themselves have adopted. The saddest part of the whole thing is that the Secretary of State for India has fallen a victim to these grievous misrepresentations. Possessing no personal knowledge of the people of this country, and overwhelmed with a sense of the vast responsibilities of his office, he has allowed his vision to be obscured and his sense of proportion to be warped. From time to time he has let fall ominous hints in the House of Commons, and more than once he has spoken as though some great trouble was brewing in India, and the country was on the eve of a dark disaster. My Lord, in these circumstances, the passing of a Bill like the present and in such hot haste, is bound to have the effect of confirming the false impression which has been already created in England, and this cannot fail to intensify and deepen still further the sense of injustice and injury and the silent resentment with which my countrymen have been watching the course of events during the last few months. I think the Government are repeating in this matter the great mistake they made when they partitioned Bengal. Whatever advantages, as regards administrative efficiency may have been expected from that measure, it has cost the Government the good-will of the vast majority of the people of that Province, and this is a loss which no amount of administrative

[1ST NOVEMBER, 1907.]

[Mr. Gokhale.]

efficiency can balance or compensate. Similarly, for one man whose wild talk the Government may be able to prevent by this Bill, nine hundred and ninety-nine will smart under a sense of injury that they have been placed under a law which they have not deserved and their minds will drift away silently and steadily from the Government, till at last their whole attitude towards the administration is changed.

"My Lord, so much has of late been said and heard of sedition in India that a brief inquiry as to how far it really exists and, to the extent to which it may exist, what is its origin and its character, may not be out of place at to-day's meeting. Five years ago, when Lord Curzon announced to the whole world at the Delhi Durbar that the people of India were frankly loyal to the British connection and the British Crown, I believe he stated but the bare truth. Now when any one speaks of loyalty in India in this connection, he speaks not of a sentiment similar to that of feudal Europe or of Rajput India, but of a feeling of attachment to British rule, and of a desire for its stability based on enlightened self-interest—on an appreciation of what the rule has on the whole done for the people in the past and of the conditions which it ensures for future progress. In this sense the educated classes of India have been from the beginning entirely loyal. It was, however, inevitable that they should gradually grow more and more dissatisfied with their own position in the country and with the existing system of administration, and twenty-two years ago they started an organized agitation for reform. This agitation, perfectly constitutional in its aims and methods, rapidly grew all over the country from year to year. It had not received much encouragement from the Government, but no serious obstacles had anywhere been thrown in its way, and its current flowed more or less smoothly and on the whole free from racial bitterness till Lord Curzon's time. Then came a great and in some respects a decisive change. Lord Curzon's reactionary policy, his attempt to explain away the Queen's Proclamation, his unwise Convocation speech at Calcutta—all these produced intense exasperation throughout India. This exasperation was the worst in Bengal, because though Lord Curzon's measures affected all India, they fell with special weight on Bengal. And when on the top of these measures the Partition of Bengal was carried through, a bitter and stormy agitation sprang up in that Province, in which the general agitation for reform soon got completely merged. The bitterness of Bengal agitation gradually came to communicate itself to the reform movement all over the country by a sort of sympathetic process. Bengal has always been the home of feeling and of ideas more than any other part of India. The people took to heart very deeply the failure of their agitation against Parti-

[Mr. Gokhale.]

[1ST NOVEMBER, 1907.]

tion, and then the more reckless among them began to ask themselves new questions and came forward to preach what they called new ideas. It is true that they have received a certain amount of hearing in the country, but that is more on account of the passion and poetry of their utterance than on account of any belief in the practicability of their views. Their influence, such as it is to-day, is due to the alienation of the public mind from the Government, which has already occurred, but which the Government have it still in their power to set right. Measures of repression will only further alienate the people, and to that extent will strengthen this influence.

"At the beginning of this year, another acute agitation sprang up, this time in the Punjab, against the Colonisation Bill and other agrarian grievances, and here a fresh element of bitterness was added to the situation by the State prosecution of the *Punjabee* on a charge of exciting racial ill-will, when the *Civil and Military Gazette* had been let off with only a gentle remonstrance. This agitation too on its side swallowed up for the time the general reform agitation in the Punjab, and the reform movement in other parts of India could not escape being affected by it. Then came the demonstrations at Lahore and the disturbance at Rawalpindi, and then the repressive measures of the Government—notably the deportation of Lala Lajpat Rai, the arrest and prosecution of Rawalpindi pleaders and the Public Meetings Ordinance. The whole country was convulsed, and while the Punjab itself was paralysed, in other parts of India even the most level-headed men found it difficult to express themselves with due restraint. That a man like Lala Lajpat Rai, loved by thousands not in his own Province only, a man of high character and of elevated feeling, a keen religious and social reformer, and a political worker, who, whatever his faults, worked only in broad daylight, should have been suddenly arrested and deported without a trial—this was a proceeding which stunned the people throughout India. And as regards the Rawalpindi case, what shall I say! For four months the whole country witnessed the spectacle of the venerable Lala Hansraj, a man as incapable of promoting disorder as any member sitting at this table—with other gentlemen equally respectable, rotting in the lock-up on a charge of inciting to violence and conspiring against the Crown! My Lord, it will be long before the memory of the sufferings of these men is wiped from the public mind. Meanwhile the country is waiting to see how the authorities deal with those who brought these sufferings on them by producing evidence which the trying magistrate has pronounced to be 'most untrustworthy and probably fabricated'! My Lord, with these things happening in the country, is it any wonder that the voice of those who

[1ST NOVEMBER, 1907.]

[Mr. Gokhale.]

counsel patience and moderation and self-restraint should be for the time at a discount among their countrymen? The occurrences of the last six months have afforded ample encouragement to those who like to talk strongly, and do not occasionally mind talking wildly.

" This then is the position. A few men in Bengal have now taken to preaching a new gospel, and here and there in the country one occasionally hears a faint echo of their teaching. But their power to influence the people—to the extent to which they are able to influence them—is derived mainly from the sense of helplessness and despair which has come to prevail widely in the country, both as regards the prospects of reform in the administration and as regards the removal of particular grievances. The remedy for such a state of things is therefore clearly not more repression but a course of wise and steady conciliation on the part of the Government. Your Lordship has already taken a most important step in the direction of such conciliation so far as the Punjab is concerned by vetoing the Colonisation Act. Let the work of conciliation be carried further—let the deported prisoners be brought back, and if the Government have anything against them, let them have a fair trial; and let the Province remain under the ordinary law after the Ordinance expires. As in the Punjab the Colonisation Act has been vetoed, so in Bengal let Partition be modified in some manner acceptable to the Bengalees. The causes of acute discontent in these two Provinces will then have disappeared and the old stream of a movement for reform will be separated from the bitter tributaries that have recently mingled with it. The Government can then deal with the question of reform on its own merits, and if it is handled in a spirit of broad-minded statesmanship, a solution may be arrived at which will give general satisfaction. In this connection, I would like to say a word about a remark that fell from the Hon'ble Sir Harvey Adamson on 18th October. Speaking of the necessity of coercion, the Hon'ble Member said: 'The Government of India have all along recognized that unrest is not solely the outcome of seditious agitation, but has its basis on the natural aspirations of the educated Indians. To meet these aspirations and to associate Indians more closely in the administration of the country, we formulated a large and generous scheme of reform which is now before the public for criticism'. And he proceeded to express his disappointment at the reception which the scheme had met with and to complain that that reception showed that the Government had to deal with a section of irreconcilables. My Lord, I am sure the Hon'ble Member had no intention of branding all who are unable to grow enthusiastic over the Government proposals as 'irreconcilables'. The words employed by him have, however, been so understood,

[Mr. Gokhale.]

[1ST NOVEMBER, 1907.]

as may be seen from the telegram of the Bombay Presidency Association, and this is rather unfortunate. But what I want to say is this. If the Hon'ble Member expected that the publication of the Government scheme of August last would allay the discontent in the country in any degree, he was bound to be disappointed. The scheme is neither large nor generous and in some respects it is not a scheme of reform at all. And the general disappointment which it has occasioned has necessarily intensified the prevailing feeling of discontent. As though this was not enough, the language employed in explaining the proposals is in some places unnecessarily offensive to certain classes. And taken as a whole, the document, I regret to say, lacks that dignity of statement which one always likes to see associated with an important State paper.

"My Lord, it has been said that though this Bill may be passed for the whole country, yet the people of any given place have two safeguards before they actually come under its provisions. The first is that the Government of India must extend this Act to their Province, and the second is that the Local Government must notify the place as a proclaimed area. A little consideration will, however, show that there is really not much in either of these safeguards. The first is purely nominal. A place may be absolutely free from sedition of any kind and yet if it is thought that some other place in the same Province requires the application of the provisions of this Act, the Government of India have no option but to extend the Act to the whole Province. And thus for the sake of even one place, a whole Province will have this Act applied to it. Again, when the Act has thus been extended to a Province, any place therein may find itself suddenly proclaimed for the seditious activity, real or supposed, of only a few persons, though the vast bulk of the population may be perfectly law-abiding and free from the faintest suspicion of sedition. And once an area is proclaimed, the whole population will be indiscriminately made over to police rule. It is this fear which, apart from other objections, lies at the root of the great anxiety and alarm with which the Bill is regarded in all parts of the country. The Hon'ble Member says that when it is thought necessary to proclaim an area, 'it is reasonable that law-abiding persons residing within that area should be prepared to suffer some slight inconvenience for the public good'. I wonder what the Hon'ble Member's idea of a slight inconvenience is. Is it a slight thing to be exposed to the annoyance and unpleasantness of domiciliary visits? Or to have social parties of more than twenty persons raided upon or broken up, and the host and even guests, hauled up for holding a 'public meeting' without notice? The presumption of clause 3, sub-clause (3), may be successfully rebutted in Court and the magistrate may acquit. But think of the trouble and misery which may be



[1ST NOVEMBER, 1907.]

[Mr. Gokhale.]

most needlessly caused. My Lord, with the kind of police we have in the country,—men, for the most part, without scruple and without remorse—these are not imaginary fears. We have just seen at Rawalpindi what they are capable of. Other instances can also be cited, where cases have been manufactured from start to finish. It is true that the intention of the Bill is not to interfere with social parties. It is also true that under section 4, notice has to be given only of such public meetings as may be called for the discussion of particular subjects. But a Police-officer who is interested in getting any man into trouble can always pretend that a gathering of more than twenty persons was a public meeting, and it will not be difficult for him to arrange for a little evidence that the gathering was held for the discussion of a political subject. And under the plea that an offence was taking place, *viz.*, that a public meeting was being held without notice, he may want to be admitted to the place of the gathering. If the host is a strong man and knows his legal rights well, he may resist the officer and decline to admit him. But he may then find himself hauled up before a magistrate and must be prepared to face a trial. But for one strong man who will thus defy the police, nine will tamely yield. Moreover in those cases which may go before a Court, how the magistrate will construe the definition of 'public meeting' must always remain a matter of uncertainty. A curious illustration of this is supplied by the Hon'ble Member himself. Last Friday, the Hon'ble Member told the Council that the object of adding sub-clause (?) to clause 4 was to exempt meetings like Municipal meetings from the requirements of notice or permission. 'If the provision,' he observed, 'were construed rigidly, it might be necessary to give notice or obtain permission before holding Municipal meetings in a proclaimed area.' In the Hon'ble Member's view, therefore, a Municipal meeting is a public meeting. My hon'ble friend, Dr. Ghose, on the other hand, tells me that a Municipal meeting cannot be a public meeting under the definition given in the Bill. Now, the Hon'ble Member was Chief Judge of Burma before he became Home Member of the Government of India. And Dr. Ghose is one of the most learned and distinguished lawyers in the country. A difference of opinion between two such authorities in construing the definition of public meeting, even before the Bill has become law, augurs ill for the manner in which the definition may be dealt with by pliant or inexperienced magistrates!

"My Lord, there are other objectionable features of the Bill, but I do not wish to tire the Council with any further observations. The Bill is a dangerous one, and the only satisfactory way to improve it, is to drop it. But more than the Bill itself is to my mind the policy that lies behind the Bill. I consider this policy to be in the highest degree unwise. It will fail in India as surely as it has failed

[*Mr. Gokhale; Dr. Rashbehary Ghose.*] [1ST NOVEMBER, 1907.]

everywhere else in the world. It will plant in the minds of the people harsh memories which even time may not soften. It will by no means facilitate the work of the administration, and it will in all probability enhance the very evil which it is intended to control."

The Hon'ble DR. RASHBEHARY GHOSE said:—"My Lord, I am not using a mere phrase of course when I say that I was never oppressed by a sense of responsibility so deep or so solemn as on the present occasion. I am well aware that one of the first duties of the State is to preserve law and order, and if I thought that either law or order or property was menaced, or that public tranquillity could not be maintained unless the Government were armed with the power which they now propose to take, I would be the first to vote in favour of the Bill, and to vote for it with all my heart. But we have been assured on the highest authority that the present situation is not at all dangerous, and that the heart of India is quite sound. The so-called unrest, we have been also told by one who ought to be a competent judge, is only skin deep, a cutaneous affection which will readily yield to judicious treatment. Again, only in June last Mr. Morley said that the disturbances were only local and sporadic. Now what has happened since? Is the condition of the country now worse than it was in June, and would not the passing of the present Bill be taken as a sign of that very nervousness, trepidation and fear which Mr. Morley thought would be not only unworthy of, but extremely perilous to, the Indian Government?

"My Lord, I am not in the confidence of the police or of special correspondents to the English press and cannot, therefore, speak with papal infallibility, but I can solemnly affirm that though there is discontent which may possibly by injudicious measures be turned into sedition, the people of India are thoroughly loyal. If anybody doubts it, let him recall the manifestations of loyalty and of the deep attachment to the throne which followed the Prince of Wales everywhere, when he visited this country. Calcutta was at the time in a fever of agitation and excitement, as Bengal was weeping for her children and would not be comforted because they were not, and yet the Prince was received with demonstrative enthusiasm, which showed beyond all cavil or controversy our devotion to the Crown. Do not be misled by the foolish speeches of a few irresponsible men, but remember what Burke says about the noise that a few grasshoppers can make in a field. Do not, I pray you, by exaggerating the danger, play into the hands of the seditious agitator. Yet, this is precisely the thing that Sir Harvey Adamson's Bill, which casts an undeserved slur on the loyalty of three hundred millions of men, is calculated to do, for it is nothing more, nothing less, than an indictment against the whole nation. And I am confident that this measure if carried

[1ST NOVEMBER, 1907.] • [Dr. Rashbehary Ghose.]

would have a serious effect on the good people in England, who are daily fed with stories of Indian unrest, which would make one's flesh creep, by men who, though they may have grown fat in this 'land of regrets', cannot certainly plead the excuse of youth. These 'literary assassins', to use a phrase made canonical by Cobden, and their abettors would now be able to say that they were right, and would have the doubtful satisfaction of seeing our financial credit crippled. As regards the people of this country, there is only one very small section to whom the Bill would be welcome—I mean the extremists, for it would enable them to adorn their perorations with references to Russian methods of Government. For whatever precautions you may take, speeches will continue to be delivered. You cannot effectually gag one-sixth of the population of the world.

"My Lord, I do not wish to indulge in well-worn commonplaces about the futility of coercion;—the danger of sitting on the safety-valve, for instance, which must be familiar even to men less gifted than Macaulay's forward school boy. But I must remind Hon'ble Members that the Irish question yet remains to be solved. It has certainly not been solved by the numerous Coercion Acts, fifty in number, which bulk so largely in the Statute-book. In that unhappy country, the 'Isle of Destiny', agitation has led to coercion, and coercion in its turn to greater and more dangerous agitation. But I am perhaps forgetting that Ireland is a cold country where a fur coat might be useful, and therefore the analogy may not quite hold good. One thing, however, I may safely assert, and that is that in Ireland as well as in India the application of drastic remedies to skin diseases which rapidly disappear under mild treatment always leads to serious complications. Is there any reason for thinking that this is not true of the body politic? The measure now before the Council may secure for a time outward quiet, and drive sedition underground, but its inevitable fruits will be growing discontent and distrust, which may under repression readily slide into disaffection. It will thus create more evils than it can possibly cure. And this reminds me that the movement in the Punjab was mainly agrarian and was arrested by Your Lordship's refusal to give your assent to the Colonisation Act, and not by the Ordinance; the powerlessness of which to keep down unrest is shown by the fact that there are no signs of improvement in East Bengal.

"My Lord, we have no doubt whatever that in devising the present measure, the Government have only the interests of peace and order at heart. But authority which is compelled to be severe is liable to be suspected, and when it seizes the rude weapons of coercion, its motives are liable to be misconstrued. People are everywhere asking, in fear and in trepidation, what next and next. What is to be the end of this new policy? For the spirit of coercion is not

[Dr. Rashbehary Ghosa]

[1ST NOVEMBER, 1907.]

likely to die for lack of nourishment, as it makes the meat it feeds on, and trifles light as air are to it confirmations strong, shall I say as an Indian police report or a scare telegram from our own correspondent?

"I repeat that the situation is not in the least dangerous, and an over-readiness to scent danger is not one of the notes of true statesmanship. But suppose I am wrong and the position is really critical, what does it prove? It proves, unless we are afflicted, not merely with a double or even a triple, but with a quadruple dose of original sin, that the government of the country is not the most perfect system of administration that some people imagine.

"My Lord, I began by saying that this Bill is an indictment of the whole nation. If, however, it is true, and this can be the only justification of the measure, that India is growing more and more disloyal, this Bill is really an indictment of the administration. The positions will then be reversed. The Government, and not the people, will then be put on their defence. There is no escape from this dilemma. If there is no general disaffection, you do not want this drastic measure. The prairie cannot be set on fire in the absence of inflammable materials to feed it. If, on the other hand, a spirit of disloyalty is really abroad, it must be based on some substantial grievance which will not be redressed by Coercion Acts. You may stifle the complaints of the people, but beware of that dreary and ominous silence which is not peace, but the reverse of peace. Even immunity from public seditious meetings may be purchased too dearly.

"And this leads me to remark that the present Bill, which the Member in charge of it frankly admits is a repressive measure of considerable potency, does not seem to be modelled on any law of which I am aware. It may possibly be based on some ukase though the definition clause seems to be original, but I cannot speak with confidence because I never had occasion during the last forty years to study the jurisprudence of Russia, and I sincerely trust I shall not now be called upon to do so. There is no such law in Italy or Belgium, France or Switzerland, though the seditious agitator is not an unknown figure in Europe, which is honeycombed with secret societies of anarchists and socialists. Riots too, which the soldier is often called upon to quell, are not infrequent; and yet there is no such drastic law in any of these countries for the suppression of public meetings. In America, as Hon'ble Members are perhaps aware, the right of public meeting is safeguarded by the very constitution of the United States, which provides that Congress shall make no law 'abridging the freedom of speech or of the press, or of the right of the people, peaceably to assemble and to petition the Government for a redress of grievances'. And this

[1ST NOVEMBER, 1907.]

[Dr. Rashbehary Ghose.]

has also been the wise policy of the English law which was interrupted only for a short time in the Georgian period when the public mind was much excited by the events in France, but Lord Sidmouth's Act, which did not prohibit but merely forbade any meeting of more than fifty persons to be held, unless six days' notice was given by seven householders to a magistrate, almost fell dead born, and is now remembered only on account of the Café Street conspiracy which was its immediate outcome.

"My Lord, it has been said by a very high authority that, in view of the activity of the extremists, it would be the height of folly not to try to rally the moderates to the side of the Government, but surely, surely, repressive measures are not the best method of attracting their loyalty. The right of personal freedom and of meeting in public has always been regarded by us as an inalienable privilege of every subject of the British Crown. But we were painfully reminded only the other day that we may be deported without a trial, and now that the right of public meeting is going to be taken away from us, with what face can an Indian subject of His Majesty say '*Civis Romanus Sum*', which was at one time his proud boast. We must speak our convictions, and that in no hesitating or diffident notes, as our dearest interests are at stake, for this Act, if passed—we know how it would be administered—would, I fear, prove the grave of all our political aspirations. You are taking away from us who have not even that which we have. Put down disorder by all means, the civil sword is at present strong enough for that purpose; but do not kill the free play of thought or the free expression of it. In the organ tones of Milton, which may still be heard across the centuries, 'that would be the slaying of an immortality rather than a life'. In pleading in those impassioned words, which nobody who has read them can ever forget, for the liberty 'to know, to utter and to argue freely according to conscience is a liberty above all other liberties,' the great protagonist in the arena of free discussion points out that England 'needs no policies, no stratagems, no licensings to make her victorious', neither I should add, at home nor abroad. And it is to this freedom of discussion that England owes, among other blessings, the abolition of the slave trade and slavery, Catholic emancipation, parliamentary reform and the repeal of the Corn Laws. It may be, we have been so long in the house of bondage, that the blaze of liberty has dazzled and bewildered some weak eyes. But in time we shall become accustomed to the light and able to bear it. Before that time arrives violent opinions may be sometimes expressed; but folly, if treated with forbearance, has generally a short life.

[Dr. Rashbehary Ghose.]

[1ST NOVEMBER, 1907.]

"It is said that we are intoxicated with the new wine of freedom, that Locke and Milton, Fox and Burke, Bright and Macaulay, have unsettled our minds. But those who say so take no account of the Time Spirit against which even the Olympian gods must fight in vain. I trust I am no dreamer of dreams, but I see that what is passing before us is a social and political evolution. You may guide it, but you cannot arrest it, any more than you can make to-day like yesterday. Silent and as yet half-conscious forces are at work, which a wise statesman would harness to law and order by timely concessions. But a reactionary policy would only make the last state of the country worse than the first; for angry passions, which under milder measures would have died away, would stiffen into deep and lasting hatred; and the infection is sure to spread with time.

"Is the Government, I ask, afraid of the rant of a few agitators? Is the police unable to preserve public order, and has the Magistrate ceased to be a reality or the Statute-book a dead-letter? If the free right of public meeting is abused, is the ordinary law incapable of punishing such abuse? The question really comes to this—Is the right to meet in public for the discussion of political matters to be taken away from us simply because it is liable to abuse? There was no attempt to interfere with the right in England after the 'No Popery' riots when London was held by the mob for two days together, or even after the Reform riots when Bristol was sacked and the magistrates were powerless. It is true public meetings have been sometimes suspended in Ireland, but does the condition of India in any way resemble that of Ireland? Are there any cattle maimers, incendiaries or agrarian or Phoenix park assassins in India? Is there any association which openly preaches that killing is no murder? Thousands of mass meetings have been held in Bengal, every one of which was orderly except on a recent occasion where the police were sent to keep order. And here I may mention that our experience is that the custodians of the public peace themselves require a custodian, but if the salt hath lost its savour wherewith shall it be salted?

"We do not however object to the admission of the police to meetings, which are really public; but what is the justification, and where is the necessity, for clause 5 of the Bill. It is true, Sir Harvey Adamson reminded us that public meetings can be prohibited only by officers of high standing and of large experience. But his assurance will hardly satisfy those who have read Bentham's Book of Fallacies.

"It has been said that a loyal community has no more reason to apprehend

[1ST NOVEMBER, 1907.]

[Mr. Rasbehary Ghose.]

the application of these powers than the imposition of the British death duties. This I venture to think is the reasoning of men who live in closets, and are unacquainted with practical affairs. The answer to this sort of argument is to be found in the speech of Sir Charles (afterwards Lord) Russell, Chief Justice of England, on the Irish Crimes Bill. As to public meetings, he said, they would be told with sincerity and truth that the only object of the clause was to prevent meetings which were treasonable or seditious, or openly hostile to the peace. Such professions, added the distinguished speaker, might be made in perfect good faith, as they had been on previous occasions; but he feared the public meetings clauses would be so applied as to put down the free expression of public opinion in Ireland, and the people would believe them to be directed to that object.

"Now if such things can take place in a green tree, what may not happen in the dry. It is notorious that in this country we have even less to fear from a bad law than from its administration by the machinery entrusted with the task. And I have no hesitation in saying that if this Bill is passed, it will make the police, who are the eye and the ear of Government, the absolute masters of the people, who will be handed over to the tender mercies of a body of public servants who are not the most efficient or the most immaculate; and their domiciliary visits, which I take it, will not be few or far between, are sure to lead to breaches of the peace among a people to whom the sanctity of their homes is something more than a mere phrase. I wish to speak with all reserve, but I am bound to say that even the action of our magistrates, who are part of the executive, will be regarded with distrust as not possessing either adequate knowledge of the law or that judicial temper which is so essential to the discharge of those delicate duties which will now be entrusted to them. If any Hon'ble Member is inclined to think that my misgivings are unfounded, let him study the comments in the Irish press on the cases, and their name is legion; decided under the Coercion Acts.

"Not only is the measure in my humble judgment uncalled for and impolitic, but it is also superfluous; as the Indian Statute-book gives the Government ample power to put down sedition. You will find the iron hand concealed in the velvet glove in section 108 and also in section 144 of the Code of Criminal Procedure, which enabled the Magistrate of Calcutta only the other day to prohibit public meetings. Unlawful assemblies again may be dispersed under sections 127 to 132 of the Criminal Procedure Code; while open sedition may be punished under sections 124-A, 153-A and 505 of the Indian Penal Code. We have, however, been told that the object of this Bill is to insure the free admission

[*Dr. Rashbehary Ghose.*]

[1ST NOVEMBER, 1907.]

of the police to all public meetings for the purpose of taking notes of any seditious speeches that may be made, but does anybody seriously believe that the Indian Police are equal to the task? It may be easy to provoke a riot, it is sure to be provoked if private houses are invaded, but it is not quite so easy to report a speech correctly.

"My Lord, I wish to speak with that loyal frankness which is the best proof of true loyalty, and I repeat that repressive measures like the present would put a severe strain on the loyalty of the educated classes who have been considerably exercised in their minds by the resurrection of Regulation III of 1818 and by the Ordinance of May last. I am well aware that we are spoken of as a microscopic minority, an alliterative phrase which seems to have the same soothing effect on certain minds as that sweet word Mesopotamia. But though numerically not very large, the influence of the educated classes is not to be measured by their numbers. One of the effects of the Bill, it is my duty to warn you, would be to drive some of them into the camp of the extremists.

"It has been said that this Bill is a measure of great potency. I agree,—but potency for what purpose? For putting down sedition? I say, no. It will be potent for one purpose and one purpose only, for the purpose of propagating the bacillus of secret sedition. The short title of the Bill is—A Bill for the Prevention of Seditious Meetings,—but I venture to think the title requires a slight addition. It ought to be amended by the addition of the words 'and the Promotion of Secret Sedition'. Order may be kept, peace may reign in India, but this measure will produce the greatest disappointment among those by whom, though they are not the natural leaders of the people, public opinion is created and controlled. The logic of coercion we all know is charming in its simplicity, but its authors forget that they cannot coerce thought—they cannot make men loyal by a legislative enactment. It is true, a policy of thorough may be successful, but no Englishman at the present day, except possibly some of the oracles of the press, would counsel anything of the kind.

"I am sorry to find that the Hon'ble Home Member's mind is filled with despair on account of the coldness with which the recent reform proposals, which I may mention in passing are merely tentative, have been received by a section of the irreconcilables. But this is not the feeling with which English statesmen have approached the Irish question. They have never lost heart because they were unable by the most generous concessions—they were bread and not something else, to win the affections, I do not say of the irreconcilables, but even of the



[1ST NOVEMBER, 1907]

[Dr. Rashbehary Ghose.]

most reasonable and intelligent among the Irish people. Their motto has always been 'Be just and fear not'.

"My Lord, for the first time in the history of the world, as Mr. Morley said, not long ago a strong and effective administration has been found not only compatible with free institutions, but has been all the more effective by their side; and he recommended this noble though arduous policy to the country; because it is noble, and because it is arduous. Let it not be said that Your Excellency's Government found this noble and glorious task too arduous.

"And now I find I must stop. I trust I have said enough to justify my vote. I do not oppose this Bill in a party spirit, for there are no parties in this Council; nor have I any desire to embarrass the Government. I oppose this Bill because I am fully persuaded that it is foredoomed to failure. I oppose this Bill because it will intensify and not mitigate the evil which you are seeking to guard against. I oppose this Bill, it is no paradox, because I am a friend of law and order, both of which are menaced by it. I oppose this Bill because the Government already possess all the power they can reasonably want in the armoury of the Penal and the Criminal Procedure Codes. I oppose this Bill because it violates all the liberal traditions which have up to this time guided the Government. I oppose this Bill because I wish to see the English rule broad based on the peoples' will, and not resting merely on the sword, whether Indian or British. And lastly, I oppose this Bill because it will kill all political life in this country.

"My Lord, we are conscious we are fighting a losing battle. We know we shall be defeated, but we shall not be dejected. For there are some defeats which are more glorious than victories, and we shall count this among their number. We have been taught and have learnt to value the right of public meeting as one of our dearest rights, and we should have been unworthy of ourselves, unworthy of the trust reposed in us, if we quietly submitted to a measure which is aimed at it and which would be so fatal to all national growth. In our defeat, however, we shall be sustained by one great consolation, the consolation of having endeavoured, according to our lights, to do our duty to the Government and to the country.

"One word more. It is unfortunate that the 1st of November should have been fixed for this meeting. That day has always been associated in our minds with the gracious Proclamation of Queen Victoria. It will now be associated with the loss of one of our most cherished rights."

[*Tikka Sahib Ripudaman Singh of Nabha.*] [1ST NOVEMBER, 1907.]

The Hon'ble TIKKA SAHIB RIPUDAMAN SINGH OF NABHA said :—“ I may, my Lord, be permitted to make a few observations on this measure, which is now before the Council. It is doubtful whether a law of this kind would help to produce better feelings between the Government and the people. The Bill at first was so vaguely drafted that I wondered whether even a meeting of this Council held in a proclaimed area would not also have come under section 3, sub-section (2). Therefore it is pleasing to note that some wholesome alterations and modifications have been suggested by the Select Committee. For instance, firstly, that this Act will not be permanently placed on the Statute-book, and secondly, that a notification made under section 2, sub-section (1), will expire after six months. I hoped that the Bill would be so modified and altered by the Select Committee as to make a silent vote on my part possible, but my hopes have not been realized. The definition of public meeting in section 3, sub-section (1), is very wide, so that even all social and religious meetings may be included, which is most undesirable. Section 3, sub-section (2), is also objectionable, because the sanctity of private houses should be respected by the Government, and because interference in the personal affairs of the people is always likely to cause much heartburning. The wording of section 3, sub-section (3), is very vague and likely to cause a great deal of annoyance to the general public and to the law-abiding members of the community, as private gatherings may be included under it, if the wording of this section is allowed to remain as it is. The object of the Bill is only to prevent the spread of sedition by public meetings; therefore, that should be quite clearly defined, as in section 4, sub-section (1), the words ‘any subject likely to cause disturbance or public excitement’ are too wide in their significance. In section 4, sub-section (3), I regret to note that no *clear* exception has been made in the favour of meetings of purely a social or religious character; as prohibition of, or the necessity of taking special permission for, religious or social gatherings would cause needless annoyance to the law-abiding and loyal subjects of the Crown. Apart from that, interference on behalf of the Government in the case of purely religious and social meetings would be calculated to cause real ill-feeling. For general purposes the Indian Penal Code and the Code of Criminal Procedure being quite sufficient, the scope of this Bill should be strictly restricted, and in section 5 all the words after the word ‘disaffection’, and also the same words in the preamble are, in my humble opinion, quite unnecessary. The objections which I have raised against section 3, sub-section (1), apply with equal force to section 7 of the present Bill. The words ‘on any subject likely to cause disturbance or public excitement’ in this section are superfluous and goes too far. It is not proper and desirable to interfere with the religious or

[1ST NOVEMBER, 1907.] [Tikka Sahib Ripudaman Singh of Nabha;  
Sir Harvey Addmson.]

social affairs of the people, and the Bill would lose none of its effect if something were done to prevent needless interference in the case of social and religious gatherings. If the Bill is passed at all; these defects should be removed, and the utmost care should be taken to prevent abuse of the provisions of the Bill by the over-zealous subordinate officials. For the above reasons, I am sorry, my Lord, that I have to oppose this Bill as it stands."

The Hon'ble SIR HARVEY ADAMSÓN said :—" With reference to a remark of the Hon'ble Mr. Gokhale I may say that when at a former stage of this Bill I alluded to irreconcilables I referred to the extremist party whose avowed policy is to make the government of the country impossible. I have read again what I then said, and I am unable to see that it can bear any other construction. With reference to another of the Hon'ble Member's remarks I bow entirely to the Hon'ble Dr. Ghose's superior knowledge of law.

" I explained at a previous meeting why this legislation had been undertaken in Simla. The criticisms that have been offered do not require me to add much to what I have already said. I explained that we considered it necessary to legislate so that the law should have effect before the Ordinance expired. If that necessity be doubted I point to recent events in Calcutta which, in the absence of the Ordinance, would certainly have spread the infection to Eastern Bengal and originated a new period of lawlessness there. It has been suggested in many communications made to me that the Ordinance might have been extended for a further period. This course would have been quite contrary to the spirit and the letter of the law, and I am sure that if we had adopted it, none would have more vigorously attacked us than those who have suggested it. I explained that we delayed legislation until experience revealed the defects of the Ordinance, and especially that we were unwilling to legislate until we had seen whether the Council reforms that were laid before the public would meet any response in allaying seditious agitation. And I further showed that the time allowed for the discussion of this short Bill was ample. Nearly the whole of it has been before the public for over five months in the shape of the Ordinance, which has been discussed *ad nauseam* in every newspaper and on almost every platform in the country. The Hon'ble Mr. Gokhale says that the Bill is being discussed in a meeting of the Council which is not full. Whose fault is this? Every member has had ample notice and ample opportunity of attending, and I surely may presume that Hon'ble Members of this Council will take the trouble of undertaking a short railway journey if they consider the matter before the Council to be of sufficient importance to require their presence. The

[*Sir Harvey Adamson.*] • [1ST NOVEMBER, 1907.]

presumption to be drawn from the Council not being full is that the Hon'ble Members who are not present either approve of the Bill or at least do not so strongly disapprove of it as to consider their presence necessary. The objections to legislation at Simla are not so strong now when there is a railway that runs to the door of the Council Chamber as they were years ago in the time of Lord Northbrook when there were no such facilities. Every Member of the Council could easily have been present on the day when the Bill was referred to a Select Committee. The Bill has practically been before the country for months, and the full and complete arguments that have been urged against it to-day show that Hon'ble Members who are opposed to it have had ample time to prepare their briefs, and that objections on this account are groundless.

“In the objections of the Hon'ble Members who are opposed to the Bill and in the criticisms that I have received from elsewhere the feature that has struck me most forcibly is that these objections and criticisms have greatly exaggerated the scope of the Bill. It has been assumed that if a place is declared as a proclaimed area there will be an end for ever after—or at least for the three years during which the Bill will operate—of free speech and free meetings in that place. Now, quite apart from the fact that even in proclaimed areas the Bill gives power to prohibit only certain meetings of a kind harmful to the public peace, the assumption that the Bill contemplates any permanent curtailment of public liberty is absolutely unfounded. The Bill provides that the Local Government may declare any place to be a proclaimed area and it is quite true that it does not provide in words for rescinding such an order. But that is a mere trick in drafting. The General Clauses Act provides that the authority which has power to make an order has also power to rescind it. The declaring of a place to be a proclaimed area is therefore only a temporary measure. It is intended to meet only exceptional circumstances of danger, and when a proclaimed area reverts to its normal condition of freedom from danger of disturbance, then the necessity for retaining it as a proclaimed area ends, and the order will be rescinded, and the Bill will cease to have operation on that area. This is a point that should never be lost sight of in considering the effect of the Bill. When remembered in conjunction with the objections raised by Hon'ble Members its effect is to detract enormously from the strength of every objection that has been urged. I beg that this condition may be taken as qualifying every word that I say to-day, namely, that the Bill is designed to operate only in exceptional circumstances, exceptional places, and exceptional times of insecurity.

“Now, in defending the Bill against the attacks that have been made on it there are two points that I must endeavour to clearly prove. The first is that

[1ST NOVEMBER, 1907.]     [Sir Harvey Adamson.]

in the present circumstances of India a measure for repressing inflammatory oratory is necessary. The second is that the Bill does not give powers in excess of what is required to achieve that object. As regards the necessity I almost feel that I should apologise for wasting the time of the Council, for the course of events during the past few months has surely been sufficient, without words of mine, to prove to reasonable men that a preventive measure is necessary. The party of extreme agitation, at least so as far as they consist of men of matured understanding, may be comparatively few—I doubt if they are so few as the Hon'ble Members represent—but they exercise a baneful influence. They are teaching the schoolboys and students of the country that the Government as established in India is a Government of despots whose only desire is to enrich themselves and to impoverish and depopulate the country. They are teaching the younger generation who in a few years will in the natural course of affairs take a large share in the administration of India that that administration is one of chicanery and deceit. It is no light thing that by the action and avowed policy of this disloyal party, the masses of the common people, who are contented and law-abiding when left to their own devices but whose natures contain elements that are easily stirred to violence, have been excited by plausible lies to plunge the country into disorder. Nor is it a light thing that determined attempts have been made to seduce the police and even the native army from its allegiance. The whole aim of the seditious party is to subvert the Government of the country, and it may be summed up in one word,—it is treason. But I will not content myself with general statements. I will take up the Hon'ble Mr. Gokhale's challenge and will show that in every part of India where seditious oratory has been poured on the people during the past eight months, the immediate result has been grave lawlessness and disorder.

“In the Punjab during March and April last a flood of platform oratory was let loose. Speeches of a highly inflammatory nature were delivered almost daily. These speeches had a pernicious effect on the uneducated and uncritical minds of the people, who were wrought to a high pitch of excitement. This oratory culminated in the riots at Lahore and Rawalpindi, which would no doubt have been followed by similar occurrences elsewhere if prompt action had not been taken.

“A similar flood of oratory was about the same time poured forth in Eastern Bengal, inculcating among other things the boycott. It excited the population of that Province and culminated in the serious riots at Comilla and Magrahât and the neighbourhood in Tippera district, at Nangalband in Dacca, at Jamalpur, Bakshiganj, Kharma, Bahadarabad, Dewanganj, Tarakandahât,

[Sir Harvey Adamson.]

[1ST NOVEMBER, 1907.]

Defuliyahât, and a number of other places in the Mymensingh district, at Solanga in Pabna and Kishorhât and Ekdala in Rajshahi. There were also incipient disturbances elsewhere, but these were nipped in the bud by the fortunate presence of the Magistrate or the police.

" In Madras, which until the present year had been free from political disturbances, platform oratory of an inflammatory nature was carried on almost daily in the latter part of April and the beginning of May. The result was the outbreak of students at Rajahmundry, the serious riot at Coonada in which the club was wrecked, and a disturbance at Rajahmundry which necessitated the despatch of troops to that place.

" In Calcutta there had been meetings almost daily since the beginning of August, and a stream of seditious oratory was poured forth on the town. The police were urged to forsake their duty, the people were incited to attack the police, especially the European police, and students were advised to arm themselves with *lathis*,—advice which they accepted. The result was that disturbances took place on August 7th and 26th, September 9th and October 2nd to 5th, which became so serious that the authorities were compelled to take extraordinary action under Section 144 of the Criminal Procedure Code in restraint of public meetings.

" The Hon'ble Members who oppose the Bill seem to be inclined to admit much of this. They admit that a party has been formed whose aim and object is to subvert the Government of the country. But they say 'why do you not prosecute these seditious agitators? The existing law of the country—the Indian Penal Code—gives ample power to punish them. Why do you not enforce it instead of enacting a measure which will cause inconvenience to and may possibly imperil the loyal subjects of His Majesty?' Do Hon'ble Members ask for an answer to that question? Do they not themselves know it? The answer is that in order to prosecute there must be witnesses. In western countries public sentiment is against the breakers of the law. If in a European country treason were preached at a public meeting many of those present would, from patriotic motives, come forward and denounce and testify against the traitors. But what happens in India? The public are assembled in a meeting at which the most violent sedition is preached. Most of those present—if we are to believe the Hon'ble Members who oppose the Bill—are loyal citizens. Surely it is the duty of loyal men in such a case to come forward and give evidence against traitors. When were men of the moderate party in India ever known to do this? It may be a moral certainty that sedition was preached, but no witnesses of respectability are to be

[1ST NOVEMBER, 1907.]

[*Sir Harvey Adamson.*]

found. The moderate party in India do not recognize the moral obligations that are accepted by loyal subjects in every other country in the world. That is the reason why in India we cannot rely on prosecutions, and are obliged to resort to preventive measures which entail inconvenience, and it may be further risks, on the innocent and the guilty alike. Herein lies the whole fallacy of the Hon'ble Dr. Rashbehary Ghose's argument, and of his comparison between India and England, and India and continental nations. There is a loose notion prevalent that the right to a free expression of opinion is a fundamental doctrine of the law of England. But as every lawyer knows the phrases 'freedom of discussion' and 'liberty of the press' are not to be found in any part of the Statute-book nor among the maxims of the common law of England. The true state of things in England is simply this, that the law permits anyone to say, write, and publish what he pleases, but if he makes a bad use of this liberty he is liable to prosecution and punishment. The Government of India have no desire that it should be otherwise in India, provided that prosecution is feasible. But prosecution in India has been amply proved to be an inadequate remedy for treason and sedition, owing to the want of public spirit and patriotic feeling among the very class who are now crying that their liberties are being endangered. Let this class act the part of good citizens, and there will be no need for any other remedy for sedition than that which exists in England. It is simply because the law-abiding people of India will not assist the authorities against the law-breakers—as law-abiding citizens in every other civilized country in the world are always ready to do—that the Government is driven to a policy of prevention instead of confining itself to the prosecution of law-breakers. I cannot at short notice follow the Hon'ble Dr. Rashbehary Ghose in his researches into the laws of Italy, Belgium, France and Switzerland. The hon'ble and learned doctor is an accomplished scholar and an extensive reader. His acquaintance with the constitutional history and law of western countries is profound. But he is a lawyer as well as a student. I hope that he will forgive me when I say that in his comparison between the freedom of India and the freedom of continental nations he has assumed the rôle of an advocate addressing a jury rather than that of a judge or of an impartial critic. Let me remind him of the *droit administratif* which is part of the system of most continental nations—whether Royal, Imperial or Republican—under which the Government as representing the State has rights and powers against individuals superior to and independent of the ordinary law of the land, and under which officials are exempted from the jurisdiction of the ordinary tribunals. Would the Hon'ble Member prefer for India unfettered executive action of this nature to the comparatively mild preventive measure which has so excited his indignation?

[*Sir Harvey Adamson.*] [1ST NOVEMBER, 1907.]

"The Bill has been challenged on the ground that it can be applied to Provinces in which no actual case of urgency has yet occurred. I have explained that in three Provinces and in the capital town of India circumstances have occurred that showed the necessity for a measure of prevention of inflammatory oratory, which can be promptly applied when the necessity arises. It would be criminal folly to neglect that warning. What has happened in these Provinces may easily happen elsewhere. Indications are not wanting that seditious oratory followed by the same unhappy consequences may any day run riot in other Provinces. The reason for extending the Bill to the whole of India is that experience has shown that it may be necessary anywhere to resort with promptitude to such measures as are made lawful by the Bill.

"I think that I have completed the first part of my task and proved that prevention is necessary. The truth is that India under British Government has enjoyed a liberty—whether in the press or on the platform—that has been given to no other country in the world except England. That liberty has degenerated into a license which would not for a moment be tolerated in any country in the world—even in England. This abuse of freedom not only retards progress but it threatens to engulf India in anarchy and riotousness, and no Government on earth—unless it abnegated its functions—could dare to leave such an evil unchecked.

"And now, having proved the necessity for a measure of prevention, I will proceed to the second part of the task which I have undertaken to-day, and show that the Bill which is before us gives no unreasonable powers, and that it gives no power in excess of what is barely necessary for achieving the object in view. The chief point of attack has been the definition of public meeting. It has been urged that it is too wide and too all-embracing. I admit that the definition is a wide one. It has been made wide on purpose so as to include all meetings of a public nature that may by any possibility be harmful and to leave no room for evasion. But the definition can harm no one. It is not the definition of an offence. It is no offence to hold any such meeting as is contemplated in the definition, provided that a very simple formality is observed. Nay, more; the Bill does not even give power to prohibit meetings merely because they are meetings that fall within the definition. A further and a perfectly reasonable condition has to be satisfied before a meeting can be even prohibited. The District Magistrate or the Commissioner of Police has to exercise his discretion. This means that he has to consider all the circumstances and all the facts at his disposal. It is only when he has done so, and when in the exercise of his discretion he has come to the conclusion that the meeting in question is one that is likely to promote sedition



[1ST NOVEMBER, 1907.]

[*Sir Harbey Adamson.*]

or disaffection or to cause disturbance of the public tranquillity, that he is empowered to even prohibit it. It will be observed that the only officers who are empowered to exercise this discretion are officers of high standing and of large experience,—the District Magistrate and the Commissioner of Police. They are the highest officers that under the ordinary criminal law of India are entrusted with preventive jurisdiction. It has been contended that if the discretion is given to these officers it will make room for oppressive proceedings. This contention assumes that officers of high standing are devoid of common sense and of a sense of justice, and is tantamount to an assertion that the whole scheme of preventive jurisdiction as embodied in the Code of Criminal Procedure is wrong. I cannot for a moment admit this contention. This is a very important feature of the Bill, which is to be borne in mind in judging of the reasonableness of the measure. None but officers of the very highest standing are empowered to prohibit meetings. Another even more important feature, which has hardly received justice from the Hon'ble Members who are against me, is that the Bill nowhere gives an opening to indiscriminate or doubtful interference by the police. It provides for the attendance of persons who may be police officers at public meetings for the purpose of reporting the proceedings. I cannot conceive that any reasonable objection can be taken to this provision. The Bill provides that if persons deliberately break the law and hold a public meeting in defiance of a special prohibition, the meeting shall be deemed to be an unlawful assembly. In this case the persons concerned are deliberately resisting the execution of a law and in this respect the Bill, in allowing the police to act, does not go a single step beyond the provisions of the ordinary criminal law. The only other case under the Bill in which the police can interfere of their own accord is the case in which a person, without permission in writing, delivers a speech in a public place within a proclaimed area. In this case the police may arrest without warrant, but their action is taken in open day and in the face of the public. There is therefore in the Bill not the slightest opportunity for any doubtful interference by the police. But there is in the penal clauses of the Bill an offence which falls into a somewhat different category from those I have mentioned. If a public meeting of a certain kind is held in a proclaimed area without either notice being given or permission obtained the promoters of that meeting have committed an offence. But there is not the element of plain sailing here that there is in the other offences. It is not apparent to every onlooker that an offence has been committed. Before taking steps to vindicate the law the officer concerned has to satisfy himself both that the meeting is a public one and that it is of the kind for which notice or permission is required. In this case police action, if allowed, might be based on grounds that could be questioned. For this reason and in this

[Sir Harley Adamson.] [1ST NOVEMBER, 1907.]

case the Bill gives to the police no power to interfere. The clause to which I refer is clause 6, sub-clause (1). When read with the provisions of the Code of Criminal Procedure it will be seen that the offence is one which the police are not empowered to take cognizance of. Any contention, therefore, that the Bill allows any dubious or questionable interference by the police falls completely to the ground. The effect of the operative clauses of the Bill may be summed up in three sentences—

(1) They require notice to be given of the intention to hold public meetings for the discussion of political topics in order that accurate reports of the proceedings may be obtained.

(2) They enable officers only of the highest standing to prohibit seditious public meetings.

(3) They completely exclude dubious action on the part of the police.

And now I have completed the task that I set before me. I have shown that the Bill is necessary, and I have shown that it is reasonable. Every measure of prevention must entail a curtailment of liberty. It is no pleasure to me to be piloting a repressive measure through this Council. I would much rather be occupied with a measure of constitutional progress. But if it is my fate to be in charge of a repressive Bill I say, let it be strong enough to be effective. I have no belief in half measures for suppressing treason. I am not called upon to-day to defend the Bill from attack on the ground that it is not sufficiently drastic to meet the evil which it is intended to remove. I believe that it gives all the power that is necessary. But I can assure Hon'ble Members that I would find it more difficult to defend it from the criticism that it is not sufficiently strong, than I do to-day in defending it against the objection that it is too drastic.

"The Hon'ble Members who oppose the Bill do not deny that in India of late there has been a considerable amount of seditious platform oratory. They cannot but admit that inflammatory oratory working on the minds of an ignorant and excitable people must be a grave source of danger. I cannot see how, after the experience of the past eight months, they can believe that in India with the limitations which the conduct of its inhabitants imposes, this evil can be suppressed by the existing criminal law. Now, what policy do Hon'ble Members who are against me advise that in these circumstances Government should adopt? Their criticism is rather destructive than constructive; but I gather that rather than risk any interference with liberty they would let matters drift, and let sedition run its course in the hope that things will eventually right themselves. I may point

[1ST NOVEMBER, 1907.]

[Sir Harvey Adamson.]

out that this was the policy followed for many years in respect of the native press. In Bengal for over thirty years sedition in the press was neither punished nor prevented. During the whole of this time the dissemination of sedition in the press never ceased. Did the forbearance of Government lead to any good result? On the contrary the native press went from bad to worse, until now, when the evil that it does can be ignored no longer, it seems that it is almost impossible by the strictest enforcement of the criminal law to stem a tide of sedition which by inaction has been allowed to increase to enormous proportions. Can it be doubted that the same result will follow in the case of seditious platform oratory if we do not take timely measures to check it?

"In conclusion I ask, who is responsible for the enactment of this measure of repression. The Hon'ble Members who oppose the Bill will say that it is the act of the Government. But I assert most solemnly that they and the party whom they represent are responsible. They profess to abhor sedition, and they are never tired of saying that the party of sedition are few and that they, the moderate party—are many. What has the moderate party done to disavow sedition and to assist the Government of their country in this emergency? I must regretfully answer that they have done absolutely nothing. What has the Anglo-Vernacular Press done,—the organs which reflect or ought to reflect the opinions of educated Indians? With a few honourable exceptions their chief aim has been to distort the motives and acts of the Government. If the true leaders of educated India, men who have the views that are professed by the Hon'ble Members who oppose this Bill—they are many though they are silent—would only have the courage of their opinions and take a firm stand against sedition, whether on the platform or in the press, the day of sedition would be ended. Let educated Indians who can love their country and yet be loyal to its Government ponder over this. It is they—and not the Government—who have forged this fetter on their country. Let them even now set their faces against sedition and against the wilful misconstruction of the motives and acts of Government, and within six months the Bill which we are now endeavouring to pass into law will become a dead letter."

The motion was put and agreed to.

The Hon'ble SIR HARVEY ADAMSON moved that the word 'public' be inserted before the word 'meetings' in the title of the Bill. He said:—"My Lord, the Bill makes provision for the prevention of only public meetings. The Hon'ble Dr. Rashbehary Ghose is about to move an amendment to the preamble in expression of this. I propose to accept his amendment, and the

[*Sir Harvey Adamson ; Dr. Rashbehary Ghose.*] [1ST NOVEMBER, 1907.]

amendment which I now move is consequential on his amendment to the preamble."

The motion was put and agreed to.

The Hon'ble DR. RASHBEHARY GHOSE moved that in the preamble of the Bill as amended by the Select Committee, before the word 'meetings', in line 2, the word 'public' be added.

The motion was put and agreed to.

The Hon'ble DR. RASHBEHARY GHOSE moved that clause 3 of the Bill be omitted. He said:—"My Lord, clause 3 of the Bill purports to contain a definition of the expression 'public meeting'. It says 'the expression 'public meetings' means a meeting which is open to the public or any class or portion of the public'. Now, one of the first things that a draftsman learns is that it is always dangerous to attempt to define anything. Statutory definitions seldom stand the test of the Socratic method. Now, it is clear, from what has fallen from Sir Harvey Adamson, that the true meaning of this definition is open to considerable controversy. Speaking for myself I do not think that a meeting of an association like, say, the British Indian Association, would be a public meeting, because it is not open to the public or to any class of the public, simply as one of the public or class of the public. But I have reason to think that other persons may take a different view. Under the circumstances we ought to leave it to the Court to say whether a particular meeting is or is not a public meeting, an expression which the Legislature has, and I think wisely, never attempted to define."

The Hon'ble SIR HARVEY ADAMSON said:—"My Lord, I cannot accept this amendment. The Bill contains penal clauses, the construction of which depend on the significance of the term 'public meeting'. In criminal law it is necessary, for the protection of the public, that the language should be precise, in order that people may know whether they are infringing the law or not. From the point of view of the public this is a strong argument in support of the insertion of a definition. From an executive point of view there is also a necessity for defining 'public meeting'. If the Bill is to be really practical, and if proceedings under it are to have any finality, some indication must be given to those who administer it, which will enable them to determine whether a specified meeting is public or private. If no definition is made, the significance of the term 'public meeting' must be built up gradually by case-law. Now, in a preventive measure designed to meet times of particular stress and to apply to special places that are

[1ST NOVEMBER, 1907.] [Sir Harvey Adamson; Dr. Rashbehary Ghose.]

in a disturbed condition, it is necessary that the authorities should be empowered to take prompt and incontestable action. Undefined action, liable to subsequent vindication by case-law, is particularly inappropriate in circumstances where promptitude is essential. Whether, therefore, from the point of view of the public or the point of view of the executive, it is necessary to define the term 'public meeting'; and I regard the definition as an essential and indispensable part of the Bill. For these reasons I cannot accept the amendment."

The motion was put and negatived.

The Hon'ble DR. RASHBEHARY GHOSE moved that in clause 3, sub-clause (1) of the Bill, before the word 'class', in line 4, the word 'specific' be added, and the words 'or portion' be omitted. He said:—"My Lord, I have tried to find out the source of this definition; and I think I have found it in a well-known text book on the Law of Libel, in which it is said that the Legislature intended, in the Law of Libel Amendment Act, to include meetings of any specific class or portion of the public, for instance, the rate-payers of a particular ward. I venture to think that if the definition must be retained, that is to say, if it really defines anything, the word 'specific' should be added before the word 'class' so as to make it quite clear that this definition includes only meetings which are open to a specified class of the public. Then again to my mind the word 'portion' conveys no meaning whatever."

The Hon'ble SIR HARVEY ADAMSON said:—"The Hon'ble Dr. Rashbehary Ghose is a great lawyer, but I am afraid that he also shines as a wit. I suspect that one reason for proposing this amendment is to originate a dialectic and sophistical argument on technical legal phraseology, from which the Home Member, pitted against a master of legal caspistry, would come out second best. It is not very apparent what the difference in meaning is between a meeting which is open to the public or to any class or portion of the public and a meeting which is open to the public or to any specified class of the public. I gather that the Hon'ble Member argues that the words 'any class or portion of the public' mean 'any persons'. If that had been the case the language of the Bill would simply have been 'any persons'. A class or portion of the public is a readily intelligible phrase and simply means a part of the public as such. On the other hand, it is hard to say what a specific class of the public may mean. It is no doubt intended to exclude bodies of the public which cannot properly be called specific—whatever that may mean. If so, the amendment would defeat the object of the Bill. I fancy that there is some indefinite idea in the Hon'ble Member's mind that 'specific class of the public' would be a legal nut to be

[Sir Harvey Adamson, Dr. Rashbehary Ghose.] [1ST NOVEMBER, 1907.]

cracked with much edification by a Bench of the High Court. I quite appreciate the Hon'ble Member's desire that there should be something in the Bill which will give occupation to lawyers and will conserve the High Court from idleness, but in the interests of finality, which is a very important requisite in a preventive Bill, I prefer a simple phraseology that is readily intelligible, and therefore I regret that I cannot accept the amendment of the Hon'ble Member."

The motion was put and negatived.

The Hon'ble DR. RASHBEHARY GHOSE moved that clause 3, sub-clause (2) of the Bill be omitted. He said :—"My Lord, that clause says 'a meeting may be a public meeting notwithstanding that it is held in a private place and notwithstanding that admission thereto may have been restricted by ticket or otherwise'. No doubt it is very desirable that persons guilty of sedition should be prosecuted, but, at the same time, we know that it is very undesirable that the police should have access to private houses. I find that in Lord Sidmouth's Act, to which I have already had occasion to refer, there was a proviso which excluded meetings or assemblies held in any room or apartment. Section 16 of 60 Geo. III and 1 Geo. IV contained the following enactment :—"Provided always, and be it further enacted, that nothing hereinbefore contained shall extend, or be construed to extend, to any Meeting or Assembly which shall be wholly holden in any Room or Apartment of any House or Building ; anything hereinbefore contained to the contrary notwithstanding."

"Now in this country we cannot be too careful in a matter like this, as the intrusion of the police into a private house is sure to be deeply resented."

The Hon'ble SIR HARVEY ADAMSON said :—"My Lord, I cannot accept the amendment. A great many public meetings are held in private halls or private compounds. If these were excluded, the Bill would be reduced to a nullity. I am aware that the sub-clause is merely explanatory, but the explanation is necessary. Experience has shown that the Ordinance has been evaded in the two ways mentioned, in the sub-clause, *viz.*, by holding meetings in private places and by restricting admission. I think it essential that the Bill should clearly show that these devices do not necessarily exclude a meeting from being a public meeting."

The motion was put and negatived.

The Hon'ble DR. RASHBEHARY GHOSE moved that clause 3, sub-clause (3), of the Bill be omitted. He said :—"My Lord, that sub-clause says 'a

[1ST NOVEMBER, 1907] [Dr. Rushbehary Ghose; Sir Harvey Adamson.]

meeting of more than twenty persons shall be presumed to be a public meeting within the meaning of this Act until the contrary is proved'. This is a new departure from what I take it is the cardinal principle of English criminal jurisprudence; that is, that every presumption ought to be made in favour of the accused. Under the clause in question, if a meeting consist of more than 20 persons, the onus will be on the accused to show that it was not a public meeting; whereas it ought to be for the Crown to prove affirmatively that a meeting was a public meeting."

The Hon'ble SIR HARVEY ADAMSON said:—"My Lord, I regard the presumption contained in this sub-clause as a vital portion of the definition. Its object is to prevent such evasions of the Ordinance as have been practised in Eastern Bengal. It is intended to meet the case where public meetings are held in private places without notice or permission. The promoters of such meetings are punishable under sub-clause (1) of clause 6. An important question in a prosecution under this clause will be whether the persons present are the public. The manner in which those persons were congregated is a fact specially within the knowledge of the promoters. The effect of the presumption is that they will have to prove it. The strength of the sub-clause lies in the incident that in proving it they will be subject to cross-examination. The sub-clause comes to nothing except to shift the onus of proof of this particular fact to the shoulders of those who have special knowledge of it. It does not relieve the prosecution from proving the character of the meeting. It merely relieves them from proving the terms on which the people assembled. If the meeting is a *bona fide* private meeting no harm can ensue to the promoters from being required to prove a fact which they know well and of which they must have ample proof. From the events that have occurred in the proclaimed areas of Eastern Bengal it is abundantly clear that though the Ordinance was sufficient to regulate very large public meetings it had little effect in preventing seditious agitation from being fomented and kept up by small public meetings, and that these meetings have been a grave source of danger in disturbed areas. In order to touch this source of danger we must have something in the definition more drastic than the general terms of the first two sub-clauses. The presumption that we have inserted as sub-clause (3) is intended to meet the case. It gives facilities for a prosecution which would be wanting if the definition were confined to general terms. It is an essential part of the necessary vigour of a Bill which applies only to exceptional places in an exceptional time of public disturbance. I do not anticipate that the presumption will give rise to many prosecutions. But in giving facilities for a fructuous prosecution in the case of this dangerous

[*Sir Harvey Adamson; Mr. Gokhale.*]

[1ST NOVEMBER, 1907.]

and injurious class of meetings, which have hitherto, owing to the general language of the Ordinance, been practically free from check, it will, I hope, act as a preventive of seditious agitation, and will thus greatly facilitate the object of the Bill, which is prevention and not punishment. For these reasons I am unable to accept the amendment."

The motion was put and negatived.

The Hon'ble MR. GOKHALE moved that in clause 3, sub-clause (3), of the Bill for the word 'twenty' the word 'fifty' be substituted. He said:— "My Lord, this is the sub-clause of which my hon'ble friend Dr. Rashbehary Ghose just now moved the omission. It provides that 'a meeting of more than 20 persons shall be presumed to be a public meeting within the meaning of this Act until the contrary is proved'. My reasons for moving that 50 be substituted are the following: Firstly, all limits of this character are arbitrary. There is no more merit in 20 than in any other number. In my opinion however 50 would be a more reasonable number than 20. Secondly, we have the precedent of the English Acts of George III's reign. There the number was always 50. Thirdly, under the number proposed by me ordinary social parties will be excluded. A great deal of apprehension prevails that social parties might be disturbed and that a host might get into trouble if there was any ill-feeling between him and the police. It would be a good thing if ordinary social parties could be put outside the jurisdiction of the clause. Fourthly, the object of this provision is that inflammatory oratory should be suppressed or prevented. Now, I should like to know what public speaker could make an inflammatory speech to 20 people. The material is lacking: the atmosphere is lacking. An address to a meeting of 20 people could not but be more or less a quiet affair. I think therefore that the limit should be fifty and not twenty."

The Hon'ble SIR HARVEY ADAMSON said:—"The numerical limit has been fixed at 20 not with the object of interfering with meetings of 25 or 30, which slightly exceed the limit, but with the object of including meetings in the case of which there can be no manner of doubt that the numerical limit has been exceeded. The proposed amendment would entirely defeat the object of the sub-clause. It is easy for the most casual witness to truthfully say that a meeting which in reality contained 60 or 80 persons is a meeting of more than 20 persons. But it is not by any means easy to say at a glance that such a meeting consisted of more than 50 persons. The effect of substituting 50 for 20 would thus be to make the presumption ineffective in respect of the very class of meetings for which it has been framed. I am unable to accept the amendment."

The motion was put and negatived.



[1ST NOVEMBER, 1907.] [Mr. Gokhale; Sir Harvey Adamson.]

The Hon'ble MR. GOKHALE moved that in clause 4, sub clause (1), of the Bill for the word 'subject', in line 5, the words 'grievance' be substituted. He said:—"My Lord, the amendment has reference to those public meetings of which notice has been given to the Superintendent of Police or for which permission has to be obtained from the authorities. The words in the clause are: 'No public meeting for the furtherance of or discussion of any subject likely to cause disturbance or public excitement or of any political subject or for the exhibition or distribution of any writing or printed matter relating to any such subject shall be held in any proclaimed area—

(a) unless written notice of the intention to hold such meeting and of the time and place of such meeting has been given to the District Superintendent of Police or the Commissioner of Police, as the case may be, at least three days previously; or

(b) unless permission to hold such meeting has been obtained in writing from the District Superintendent of Police or the Commissioner of Police, as the case may be'.

"I do not understand why the Government should want to control the discussion on any political subject. I should be inclined to propose that the words 'political subject' be omitted altogether. The section would then be confined to subjects likely to cause a disturbance or public excitement. This is all that the Executive want. However, I understand the authorities want to know what is said about any political grievances, in the discussion of which sentiments, actually seditious, or at least bordering on the seditious, are likely to be expressed. From that standpoint I think the requirements of Government would be met if the word 'grievance' were substituted for the word 'subject'.

"If a professor of a college were to ask more than 20 pupils to his house to discuss a political subject, under the provisions of the Bill, it will be open to a Police officer to represent this as a public meeting. Of course the Courts will probably hold that it was not a public meeting. But if there was any ill-feeling between the Professor and the Police, there might be trouble. I do not see why such wide powers should be taken by the Government; and therefore I suggest the substitution for 'subject' of the word 'grievance'."

The Hon'ble SIR HARVEY ADAMSON said:—"My Lord, in clause 4 it is difficult to choose words so as to please everybody, and arguments might be brought against almost any form of words. As an illustration of this I may

[*Sir Harvey Adamson ; Dr. Rashbehary Ghose.*] [1ST NOVEMBER, 1907.]

mention the fact that in Select Committee, at the Hon'ble Mr. Gokhale's request, we altered in this clause the word 'ill-feeling' to the words 'public excitement'. I have since received a telegram from the Secretary of the Sarvajanik Sabha, in Poona, the Hon'ble Mr. Gokhale's own head-quarters, protesting against the substitution of 'public excitement' for 'ill-feeling' on the ground that it makes the penal clauses more dangerously wide. When a place is in so dangerous a condition that it is necessary to declare it a proclaimed area, it is surely not too much to require that notice should be given or permission obtained before holding public meetings in that place for the discussion of political subjects. The effect of substituting 'grievance' for 'subject' would be to unduly restrict the requirements of the clause. The amendment would introduce an absolutely unnecessary uncertainty, and would thus give room for evading the clause. For this reason I am unable to accept the amendment."

The motion was put and negatived. • •

The Hon'ble DR. RASHBEHARY GHOSE moved that in clause 4, sub-clause (2), of the Bill, after the word 'meeting' in line 5, the words and figure 'within the provisions of sub-section (1)' be added.

The Hon'ble SIR HARVEY ADAMSON said:—"My Lord, I accept the spirit of this amendment. But I have pointed out to the Hon'ble Member that exactly the same object will be achieved in a simpler way by substituting the word 'such' for the word 'public', and I understand that he agrees. I therefore move as an amendment of this amendment that in clause 4, sub-clause (2), of the Bill the word 'such' be substituted for the word 'public'.

The amendment was put and agreed to.

The Hon'ble DR. RASHBEHARY GHOSE moved that in clause 5 of the Bill after the word 'meeting' in line 6, the words and figures 'within the provisions of section 4, sub-section (1)' be added. He said:—"My Lord, clause 5 does not contain the qualifying words which we find in clause 4; which deals not with public meetings generally, but with public meetings held for the furtherance or discussion of any subject likely to cause disturbance or public excitement, or any political subject. Now, the effect of my amendment, if carried would be to bring clause 5 into line with clause 4. I take it that it is not the object of clause 5 to authorize a District Magistrate or Commissioner of Police to prohibit a public meeting which had not been convened for the purpose of discussing or furthering, any subject likely to cause disturbance or public excitement or any political subject."

[1ST NOVEMBER, 1907.] [Sir Harvey Adamson; Mr. Gokhale.]

The Hon'ble SIR HARVEY ADAMSON said:—"My Lord, the amendment which is proposed would not either add to or detract from the meaning of clause 5. It would not exempt from clause 5 a single meeting. For it is impossible to conceive any meeting that is likely to promote sedition or disaffection or to cause a disturbance of the public tranquillity that is not also a meeting for the furtherance or discussion of a subject likely to cause disturbance or public excitement or of a political subject. Therefore, so far as the construction of clause 5 is concerned, the amendment would be meaningless. But the real object of the amendment is different. The clause gives a discretion to a magistrate. I believe that, as the clause stands, it would not be open to the High Court to question that discretion in revisional proceedings. But the amendment inserts a condition that qualifies the exercise of this discretion, and the object of it is to admit revisional jurisdiction on the question whether this preliminary condition has been satisfied. I doubt whether any High Court would listen to an argument of this kind, even if the amendment were inserted. But that is its object and it is most undesirable to provide the opportunity. Preventive action under this clause has been entrusted only to officers of great experience, and it is essential that their action should be final and decisive. I can accept no amendment that might possibly have the effect of giving a want of finality to the discretion exercised by them. I am therefore unable to accept the amendment."

The motion was put and negatived.

The Hon'ble MR. GOKHALE moved that in clause 9 of the Bill, for the word 'three' the word 'one' be substituted. He said:—"My Lord, this new clause, which was added by the Select Committee, restricts the operation of this Bill to three years. Originally it was proposed that this law should be a permanent addition to the Statute-book, but in the Select Committee the Hon'ble Member in charge of the Bill was good enough to recognize the force of the objection that such a measure should not be permanently added to the Statute-book, and he expressed his willingness to limit the period to three years. I think, however, that the limit of even three years is too high, and I think for the present we should be satisfied with one year. The Hon'ble Member has told us that when the Ordinance was promulgated it had to be done in a hurry, and that after experience of its working certain suggestions were received from the two Local Governments which had to enforce it. The same thing is likely to occur with this Bill. A year's time may reveal defects which may have to be set right; and therefore, if it is found necessary to maintain this legislation in force longer, the subject should come before the Legislature at the end of a

[*Mr. Gokhale ; Sir Harvey Adamson.*] [1ST NOVEMBER, 1907.]

year. I have another ground on which I move this amendment. I have already pointed out that very few of the Additional Members have been able to attend this Council meeting. Sir Harvey Adamson seemed to make light of the absence of the Additional Members and considered that, if they had thought this matter was of importance, they would have been present. It was only a matter of travelling a little distance, he said. But I know at what inconvenience I had to travel 1,300 miles just for the sake of taking part in these deliberations. There was no notice given to the Members of this Bill—the first thing I saw anything about it was in the papers. I may mention that at this Simla session of the Council Additional Members are not expected to be present. A formal summons is, no doubt, sent us at the beginning of the session, but the Secretary sends a private letter saying that the presence of Additional Members is not necessary. If Government wanted to introduce a measure which has created so much feeling throughout the country, surely some notice should have been sent to Additional Members. But no notice was sent and it cannot therefore be said that the absence of Additional Members indicates that they have no interest in the measure. That the public has been greatly stirred is shown by the many telegrams and protests that there are being received even now against the measure. In view of these facts, in view of the necessity of giving the public a proper opportunity to express their views, and in view of the desirability of setting right any defects that might be revealed in the course of a year, I propose that the limit should be fixed at one year instead of three."

The Hon'ble SIR HARVEY ADAMSON said:—"My Lord, in restricting the life of the Bill to three years a great concession has already been made to public representations. Hon'ble Members are very sanguine if they think that the necessity for this Bill will have passed away in a year. I have already pointed out that if their party will loyally, by deeds as well as words, assist the Government of their country, the need for the Bill may soon disappear. But no indications have yet been given that this assistance will be forthcoming. I am afraid that it is impossible for me to accept the amendment."

The motion was put and negatived.

The Hon'ble SIR HARVEY ADAMSON moved that the Bill, as now amended, be passed.

The Hon'ble MR. GOKHALE said:—"My Lord, I had not intended saying more than just a word at this stage of the Bill and that only by way of an appeal to Your Excellency, but certain remarks have fallen from the Hon'ble Member in charge of the Bill with regard to the responsibility for this legislation,

[1ST NOVEMBER, 1907.]

[Mr. Gokhale.]

which make it necessary that I should say a few words in reply, as it is impossible to allow those remarks to pass unchallenged. The Hon'ble Member says that the responsibility for this Bill really rests with those who are described as the moderate section of the Reform party in India. Now I for one have never been in love with the terms—moderates and extremists. There is at times a good deal of moderation among some of those who are called extremists and on the other hand there is no small amount of what is the reverse of moderation among some who are known as moderates. However, I fear the terms as they are now in use will stick, and for purposes of my present observations, I will take them as they have been used by the Hon'ble Member. My Lord, I think it is most unfair to put the responsibility for such sedition as may be in existence in this country on what is called the moderate party. In the remarks which I made at an earlier stage of to-day's proceedings, I went at some length into the question as to how the present situation had come to be developed. I do not want to go over the same ground again, but there are one or two things which I would like to mention and emphasise. My Lord, when the officials in this country talk of sedition, they do not always mean the same thing. Different officials have different ideas of sedition. There are those who think that unless an Indian speaks to them with 'bated breath and whispering humbleness' he is seditious. There are others who do not go so far, but who still think that any one who comments adversely on any of their actions or criticises the administration in any way or engages in any political agitation, is guilty of sedition. Lastly, there are those who take a larger view of the situation and recognize that the term sedition should be applied only to those attempts that are made to subvert the Government. Now I have no wish to say anything on this occasion about the first two classes of men. I will take sedition in the sense in which it is used by the third class, and I will say this, that if such sedition has come into existence, it is comparatively a recent growth—a matter of the last three or four years only—and the responsibility for it rests mainly, if not entirely, on the Government or rather on the official class.

" My Lord, from 1885, *i.e.*, since the close of the beneficent Viceroyalty of Lord Ripon, the Congress has been endeavouring to secure some much-needed reforms in the administration. The present form of the administration is about fifty years old. We have long outgrown that now and the fact is admitted even by officials. But while they admit in a general sort of way that changes are necessary, they have some objection or other to urge against every change that is proposed. The result is that there has been hardly any movement forward in spite of our efforts all these years and the patience of the more impatient among

[Mr. Gokhale.]

[1ST NOVEMBER, 1907.]

my countrymen has at last given way. In the earlier years of the Congress, there used to be some room for a hope that the desired changes in the administration would come. After Lord Ripon came Lord Dufferin, who was not unfriendly to the Congress, though he was somewhat suspicious and he gave us the Public Service Commission. After him came Lord Lansdowne. He too was, on the whole friendly, though he was over-cautious, and he gave us the first Reform of the Legislative Councils. Then came Lord Elgin and from his time the fortunes of the Reform party have been at a low ebb. Lord Elgin's term of office was darkened by plague, famine and Frontier Wars, and towards its close came repressive legislation against the Press. Then came Lord Curzon. He was a consummate master of glowing periods, and during the first two years of his régime, high hopes were raised in the country. These hopes, however, were soon dashed to the ground on account of a series of reactionary measures, which he forced on the people. This disappointment, coupled with the sense of constant irritation which we felt during the last three years of his rule, proved too much for a section of the Congress party and they began to declare that their old faith in England's mission in this country was gone. Then came the Partition as the proverbial last straw. The people of Bengal did all they could and all they knew to avert that Partition. Hundreds of meetings were held all over the Province, prayers and protests poured in upon the Government, and the people used every means in their power to prevail upon Lord Curzon to abandon his idea. But he simply treated the whole agitation with contempt and carried his measure through. The men who are called moderate pointed out again and again to the Government the unwisdom of its course. They warned them that the measure, if forced on the people, in spite of all the furious opposition that was being offered to it, would put too great a strain on their loyalty and that some of them at any rate would not be able to stand that strain. And events have happened as they had been foreseen. The Hon'ble Member complains that open disloyalty is now being preached in Bengal. But no heed was given to the words of the moderates while there was time. And now, when the mischief has been done, the Hon'ble Member turns round and wants to throw the responsibility for what has happened on us!

"As regards the question of the moderates denouncing the extremists, it is not such a very easy matter. In the first place, I am not sure that there is such an absence of disapproval or remonstrance as the Hon'ble Member imagines. But secondly, such denunciation is largely a question of temperament. All people do not always denounce whatever they disapprove. I will answer the Hon'ble Member's question in the matter by a counter-question. There are cer-

[1ST NOVEMBER, 1907.]

[*Mr. Gokhale.*]

tain Anglo-Indian newspapers which constantly revile Indians. Has the Hon'ble Member ever denounced anything that has appeared in their columns? I am sure he and many others like him disapprove what often appears in the columns of the *Civil and Military Gazette* or the *Englishman*. But have any Englishmen in any place ever met together and expressed their condemnation of these papers? I hope the Hon'ble Member will now see that the question of denouncing those whose conduct you disapprove is not such an easy one. Moreover, with us there is an additional reason. We do not want to make confusion worse confounded, there are already enough divisions in all conscience in the country and we do not want to have a fresh cause of contention if we can help it. But let me say this to the Hon'ble Member. Whether the moderates remain silent or denounce the extremists, it will make very little difference in the hold which the extremists are acquiring on certain minds of India. There is only one way in which the wings of disaffection can be clipped, and that is by the Government pursuing a policy of steady and courageous conciliation.

"My Lord, the appeal that I want to make to-day is this. Now that the Government have armed themselves with these drastic powers of coercion, I would humbly say to your Lordship—keep these powers in reserve, do not use them immediately as far as possible, and—conciliate Bengal. My Lord, there is the root of the trouble. With Bengal unconciliated in the matter of Partition, there will be no real peace, not only in Bengal, but in any other Province in India. The whole current of public life in the country is being poisoned by the bitterness engendered in Bengal over this question of Partition. My Lord, I am not a Bengalee, and therefore I can say these things with the less reserve and without any fear of being misunderstood. The people of Bengal are the most emotional people in all India, and they will far sooner forget a material injury than one to their feelings. Now in this matter of the Partition—whatever its advantages or disadvantages, I am not concerned with that just now—there is no doubt whatever that their deepest feelings are involved. They feel that they have been trampled upon. And while they feel like that, there can be no peace. Already great alienation has taken place between them and the Government, and every day the position is growing worse. The refusal of the sufferers in the recent disturbances to appear before Mr. Weston to give evidence is a significant illustration of the change that is coming over Bengal. The Government propose to meet this change by a policy of repression. My Lord, knowing the people of Bengal as I do, I venture to predict that they will not be thus put down by force. The Bengalees are in many respects a most remarkable people in all India. It is easy to speak of their faults; they lie on

[Mr. Gokhale.]

[1ST NOVEMBER, 1907.]

the surface. But they have great qualities which are sometimes lost sight of. In almost all the walks of life open to Indians, the Bengalees are among the most distinguished. Some of the greatest social and religious reformers of recent times have come from their ranks. Of orators, journalists, politicians, Bengal possesses some of the most brilliant, but I will not speak of them on this occasion because this class is more or less at a discount in this place. But take science or law or literature. Where will you find a scientist in all India to place by the side of Dr. J. C. Bose or Dr. P. C. Roy? Or a jurist like Dr. Ghose? Or a poet like Rabindranath Tagore? My Lord, these men are not mere freaks of nature. They are the highest products of which the race is regularly capable, and a race of such capability cannot, I repeat, be put down by coercion. One serious defect of national character has often been alleged against them,—want of physical courage—but they are already being twitted out of it. The young men of Bengal have taken this reproach so much to heart that, if the stories in some Anglo-Indian papers are to be believed, so far from shrinking from physical collisions, they seem to be now actually spoiling for them. My Lord, if the present estrangement between the Government and the people of Bengal is allowed to continue, ten years hence there will not be one man in a thousand in that Province who has a kindly feeling for Englishmen. Then the Government will have on their hands a tremendous problem, for there are thirty-three millions of Bengalees, and the unwisdom and the danger of driving discontent underground amidst such a population will then be obvious. My Lord, I appeal to your Lordship to stanch this wound while there is yet time. I know the question is now complicated by the fact that the Mahomedan population of East Bengal expect certain educational and other advantages to accrue to them from Partition. No real well-wisher of India can desire that any of these advantages should be withdrawn from them, for the more the Mahomedan community progresses, the better for the whole country. But surely it cannot be beyond the resources of statesmanship to devise a scheme, whereby, while the expected advantages are fully secured to the Mahomedans, the people of Bengal may also have their great grievance removed. My Lord, considerations of prestige which have so far stood in the way of this work of conciliation may continue to obstruct it. I cannot understand how a Government, with the vast strength of a mighty Empire behind it, will suffer in prestige by such a line of action. But one thing is certain. Your Lordship has it in your power to set this matter right. And you will earn the blessing not only of Bengal, but of all India, if this source of continued bitterness and ill-feeling is removed from the land."



[1ST NOVEMBER, 1907.] [Dr. Rashbehary Ghose; Mr. Baker.]

The Hon'ble DR. RASHBEHARY GHOSE said :—" My Lord, all I wish to say in connection with the unrest in Bengal to which reference has been made is that to talk of an administrative measure as a settled fact is as reasonable, if I may say so without disrespect, as to talk of 'an irrevocable law.' "

The Hon'ble MR. BAKER said :—" My Lord, I shall not detain the Council more than a very few minutes, but I should like to add a few words to what fell from the Hon'ble Home Member at an earlier stage of the discussion on the general policy of this measure.

" We have been told to-day with characteristic force and eloquence that there is little or no sedition in India, and that those persons whose acts have led to the present legislation are a class insignificant both in numbers and influence. A similar argument has I think been used in a part of the press: but so far as I have observed it only acquired prominence after it became known that legislation was in contemplation. Prior to that time, the tendency of those organs of which I am thinking seemed to be rather to magnify the extent of the disorder, and to represent large tracts of the country as seething with discontent. If, as our critics allege, we are inclined to exaggerate the evil, are they quite sure that they themselves are not going to the opposite extreme ?

" It is a matter of common knowledge that there is a section of the press, published largely but not exclusively in Bengal, which has openly endeavoured to excite hatred of the Government and advocated its subversion; which has sought to make the administration impossible, and has denounced all Indian servants of the State as traitors to their country. During the last two or three years, perhaps even during the last few months, these organs have increased in numbers, in circulation, and in the virulence and audacity of their attacks on the established order. If those by whom these journals are supported are really so insignificant and negligible as is represented, how is it that the latter are able to appeal to so large and expanding a circle of readers ?

" Not for a moment would I seek to make too much of what is in great part frothy declamation: but I find it impossible to admit that the residuum is too trivial to notice. In the *Civil and Military Gazette* which reached Simla this morning there is a telegraphic summary of a Resolution just issued by the Bengal Government, in which the Lieutenant-Governor directly ascribes the rioting and disturbances which occurred in Calcutta on the 2nd and 3rd October,—and

[*Mr. Baker ; Sir Harvey Adamson.*] [1ST NOVEMBER, 1907.]

which have been referred to by several speakers to-day—to the violent writings and speeches of irresponsible agitators during the past few months.

“Sedition in the press can be reached by the ordinary law of the land. But that is only one weapon in the armoury of disorder. Not less dangerous, and more difficult to touch, is the seditious harangue, delivered often by men who are skilled in the arts of the demagogue, not for the legitimate ventilation of any real or fancied grievance, but to work upon the immature, ill-informed minds of their hearers; to instil into them feelings of hatred and hostility towards the State, and to incite them to the open use of force and violence for its disruption. Are we to believe that these addresses always fall on deaf, unwilling ears? I wish that I could think so. But I fear that a sufficient answer is to be found in the rioting and disorder which have only too often followed in their train, in the grotesque yet mischievous organizations known as the National volunteers, in the forcible interference with the freedom of purchase and sale of foreign goods, and in the constant resort to social ostracism of those who adhere to a different way of thinking.

“I am not in the least afraid of driving sedition underground. To men of the class we have now to deal with, men who make it their business to fish in troubled waters, publicity and self-advertisement are as the breath of their nostrils: and when these are gone, more than half the attractions of the game are gone with them.

“It is a matter of profound regret to every member of Your Excellency's Government that occasion should have arisen for legislation of this character, even of the very limited scope of the present Bill. It is true that for a short time, and within any areas to which it may be extended, it will imply some restriction on the free right of public meeting. But Hon'ble Members may rest assured that, while we hold that an evil exists which must be grappled with, it is utterly foreign to our intention to cast the smallest imputation on the loyalty or good faith of those multitudes who are, as we firmly believe, wholly out of sympathy with the propaganda at which this measure is aimed; and I will venture to express the confident hope and expectation that the great mass of the population of India will never have reason to know that any such enactment has found a place in the Statute-book.”

The Hon'ble SIR HARVEY ADAMSON said:—“We are now approaching

[1ST NOVEMBER, 1907.]

[Sir Harry Adamson.]

the concluding stage of this long discussion, and as these are the last words that I will have to say on the subject of this Bill, I propose to drop controversy and to devote the few remaining moments at my disposal to allaying any apprehensions that loyal and law-abiding men may feel, lest they should suffer harm from the provisions of this Bill. If there be any fear that the Bill will be worked oppressively, I would point to the fact that it is no new measure. For nearly six months it has, in the shape of the Ordinance, been in force in two Provinces, and not a single act of oppression in connection with its operation has been cited. The Ordinance contained almost the same penal provisions as the Bill, and I cannot remember a single prosecution that resulted from it. When a great evil has to be averted, no loyal citizen can reasonably complain of being put to some slight inconvenience for the public good. In framing the Bill the greatest care has been taken to protect the law-abiding public from unnecessary inconvenience. The Bill provides that public meetings shall be really public meetings, in the sense that their proceedings shall be liable to be reported, and no legitimately conducted public meeting can reasonably object to this provision. The preventive and punitive provisions apply only to meetings the proceedings of which are either unlawful in themselves or are dangerous to the public tranquillity owing to public excitement in special localities. These provisions have been devised with the greatest care so as to restrict preventive powers to officers of high standing and large experience and to exclude entirely action of an oppressive nature by the police or by officers of immature judgment, and thus to minimise the risk of unnecessary interference with loyal and law-abiding people. Then as to the range of the operation of the Bill, the Government of India have retained it entirely in their own hands, and I can assure Hon'ble Members that the whole circumstances will be well weighed before the Bill is extended to any Province. But I admit that there is one unpleasant aspect of this Bill. It may be a sentimental aspect—but it is a painful one. It is a regrettable thing that a repressive measure is being placed on the Statute-book of India. I think it is this feeling rather than any fear of the consequences of the Bill, that has chiefly impressed loyal men who dislike the Bill. I fully share in the feeling myself. But we have regretfully been driven by necessity to the enactment of this measure. So far as possible we have mitigated the bitterness by restricting the life of the Bill to three years."

[1ST NOVEMBER, 1907.] [Mr. Gokhale; The President.]

The Hon'ble MR. GOKHALE asked for a division, and the Council divided as follows :—

*Ayes—9.*

*Noes—3.*

The Hon'ble Mr. T. Gordon Walker.

The Hon'ble Mr. G. K. Gokhale.

The Hon'ble Mr. S. Ismay.

The Hon'ble Dr. Rashbehary Ghose.

The Hon'ble Mr. J. O. Miller.

The Hon'ble Tikka Sahib Ripudaman Singh of Nabha.

The Hon'ble Mr. J. F. Finlay.

The Hon'ble Sir Harvey Adamson.

The Hon'ble Major General C. H. Scott.

The Hon'ble Mr. E. N. Baker.

The Hon'ble Mr. H. Erle Richards.

His Excellency the Commander-in-Chief.

So the motion was carried.

His Excellency THE PRESIDENT said :—"Before I in any way attempt to discuss the merits of the measure we have had before us, I feel that I shall very fully express the views of my Hon'ble Colleagues in saying that they have only asked for the powers it confers and accepted the policy it embodies with the gravest feelings of responsibility and after much thoughtful deliberation, and that though we have considered legislation to be a matter of urgent necessity, we have been most anxious, notwithstanding the remarks which have fallen from the Hon'ble Mr. Gokhale, to afford the Indian public ample time for an expression of opinion upon the line of action we have decided to adopt. On the 18th October Sir Harvey Adamson introduced the Bill, and in doing so told us that the Government of India had been unwillingly forced to the conclusion that, when the Ordinance expired, it was necessary, not only to continue the powers it gave, but to define more clearly certain of the provisions it contained. He has to-day entered still more fully into the history of the Bill, and has very ably explained to us its various clauses and the amendments suggested in the Select Committee's Report. There is therefore no reason for me to attempt to further elucidate its technicalities, and I would only venture to recapitulate to Council the course of events and influences which have led up to our present position. That position the Hon'ble Mr. Gokhale and the Hon'ble Dr. R. Ghose have fully dealt with, and I can assure them I gladly recognise their honesty of purpose and the sincerity of their endeavours to advance the political claims of their fellow-countrymen, but I am afraid my

[1ST NOVEMBER, 1907.]

[*The President.*]

Hon'ble Colleagues have allowed their enthusiasm for the cause of political reform to blind them to the necessities of the moment, and that they have failed to recognise that the first duty of any Government is the maintenance of law and order and the protection of the people entrusted to its charge. They would lead us to believe that we have been frightened by a phantom, that we have accepted the vapourings of a few agitators as evidence of dangerous sedition, and that by the Act which we have passed we are imputing disloyalty to the masses of the people of India,—that I emphatically deny,—but at the same time I refuse altogether to minimize the meaning of the warnings and anxieties of the last few months.

“ We cannot afford to forget the events of the early spring—the riots at Lahore and gratuitous insults to Europeans, the Pindi riots, the serious view of the Lieutenant-Governor of the Punjab on the state of his Province, the consequent arrest of Lajpat Rai and Ajit Singh, and the promulgation of the Ordinance, and, contemporaneously with all this, a daily story from Eastern Bengal, of assault, of looting, of boycotting, and general lawlessness, encouraged by agitators, who, with an utter disregard for consequences no matter how terrible have by public addresses, by seditious newspapers, by seditious leaflets and itinerant secret agents, lost no opportunity of inflaming the worst passions of racial feeling, and have not hesitated to attempt to tamper with the loyalty of our magnificent Indian Army. I hope that Your Excellency as Commander-in-Chief will, on my behalf as Viceroy and as representative of the King-Emperor, convey to His Majesty's Indian troops my thanks for the contempt with which they have received the disgraceful overtures which I know have been made to them. The seeds of sedition have been unscrupulously scattered throughout India, even amongst the hills of the frontier tribes. We are grateful that it has fallen on much barren ground, and can no longer allow the dissemination of unlimited poison.

“ That is the position the Government of India have had to face—that is why we have had to tighten the curb and shorten the reins. That is why we have felt compelled to provide ourselves with a weapon against insidious attacks.

“ The Bill is aimed at the inaugurators of dangerous sedition, not at political reform, not at the freedom of speech of the people of India.

“ But there is another side to all this. I am well aware of the growing strength of political hopes and ambitions in this country, and I welcome them as the natural results of the education British administrators have done so much

[The President.] . [1ST NOVEMBER, 1907.]

to introduce and to encourage. I have said so over and over again and I deny the accusation of a disregard of the growing influence of the educated classes of India. Far from wishing to check the growth of political thought, I have hoped that, with proper guidance, Indian capacity and Indian patriotism might earn for its people a greater share in the government of their country. They have proposals before them now which I trust may greatly contribute towards that end. The Government of India would be blind indeed to shut its eyes to the awakening wave which is sweeping over the Eastern world, overwhelming old traditions, and bearing on its crest a flood of new ideas. We cannot check its flow, we can but endeavour to direct it into such channels as may benefit the generations that are to come.

“ We may repress sedition—we will repress it with a strong hand—but the restlessness of new-born and advancing thought we cannot repress. We must be prepared to meet it with help and guidance. We must seek for its causes.

“ In the first speech I made on my arrival in this country I said that I looked for assistance in furthering that sense of security and rest throughout the length and breadth of India so indispensable for the development of her internal resources, and her over-sea trade, for the careful consideration of her vital necessities and the general happiness of her people. Is it too much to hope that the leaders of Indian political thought will give that assistance to the Government of India? I can assure my Hon'ble Colleagues, the Hon'ble Mr. Gokhale and the Hon'ble Dr. Rashbehary Ghose, that a heavy responsibility rests on the shoulders of Indian reformers, for it is upon their support and upon their influence with their fellow-countrymen that British administrators should largely be able to rely.

“ I will not believe that the great bulk of the educated community are opposed to law and order, and I do believe that the masses of the Indian people render loyal homage to their King-Emperor. Moreover, I repudiate once for all the insinuation that has sometimes reached me, that the Government of India has, for political reasons, favoured the interests of one community against those of another. It has been the pride of the British Raj to balance without prejudice the claims of nationalities, of religions, and of castes; it will continue to do so, and I am grateful for the numerous expressions of loyalty I have received from Ruling Chiefs, and from the leaders of influential Associations of every denomination throughout India.

“ I have merely sketched the conditions which appear to me to surround us,

[1ST NOVEMBER, 1907.]      [*The President; Mr. Miller.*]

and I come now to the business of to-day—To the question of the utilisation, so to speak, of the Act which we have just passed. It seems to have been very generally assumed that, because it is applicable to the whole of India, it is to be universally enforced. That has never been the intention of the Government of India. The Bill, as the Hon'ble Sir Harvey Adamson has explained, was framed to meet the peculiar circumstances of certain localities and to take the place of the Ordinance, when it lapsed automatically on the 10th November. The Ordinance has been in force for six months in the Punjab and in Eastern Bengal, and it has been our duty to consider, in consultation with the Lieutenant-Governors of those Provinces, to what extent we need now rely upon the Act. Sir Denzil Ibbetson has replied that quiet is restored in the Punjab, and that he has no need for extra powers, and Sir Lancelot Hare has asked for them only in the district of Bakarganj. With the exception of that district therefore there will be now in India no legislation in force that did not exist before the promulgation of the Ordinance. I earnestly trust that there will be no further need for an appeal to the powers of the Act, but should the necessity unfortunately arise, the Government of India will not hesitate instantly to support the demands of its Lieutenant-Governors.

“ I am very far from saying that our anxieties have passed away,—there is much cause for watchful thought as to the state of affairs in many parts of India, and especially in Eastern Bengal—the future happiness of that Province rests with her people and their leaders. We cordially extend to them a helping hand, and I hope they will not hesitate to take it. ”

### AGRICULTURAL PROSPECTS.

The Hon'ble MR. MILLER said:—“ My Lord, I greatly regret that it should again be necessary to make reference in your Excellency's Council to the imminence of famine. We have suffered severely from untoward seasons in this country in recent years; in addition to the great famines of 1896-97 and 1899-1900, there have been serious droughts in different parts of the country, there have been floods so destructive as to necessitate the opening of relief works, and we have seen the promise of unusually fine harvests blighted on one occasion by unprecedented frost, on another by long-continued wet weather. In the present season the late arrival of the monsoon occasioned great anxiety, and towards the end of July the Government of India thought it necessary to call for special reports on agricultural prospects. Happily the monsoon, though late, arrived before the end of that month, and

[Mr. Miller.]

[1ST NOVEMBER, 1907.]

its appearance removed for the time being all anxiety as to damage from drought. In August we had heavy and continuous rains; in many parts of the country bumper crops were anticipated; in others there were unusual floods causing great distress and loss; complaints were made not of insufficiency of rain but of the urgent necessity for a break. Towards the end of August however the rainfall suddenly ceased in Northern India and was slight and fitful over large areas further south; September over a great part of the country was practically rainless; it became clear that widespread distress was almost inevitable; and special reports which we received at the end of that month from all the Governments showed that in Northern India the position had become very serious indeed. These special reports have all been published, and it is unnecessary therefore to go into great detail as to the circumstances of the different provinces, or as to the area affected, especially as the position alters rapidly from week to week. It may be of some interest, however, to compare the rainfall of the present season with the monsoons of 1896 and 1899, the two most recent years of widespread failure.

"Speaking generally the failure of the present monsoon has been far less serious than that of 1899. The total actual deficiency of rain has been much less, being only about half of what it was in 1877 and 1899, and the rain, which has fallen in the distressed areas has been received at a more useful time, that is to say in July-August instead of June-July. In 1899 the Punjab, Rajputana, Bombay, the Central Provinces and Hyderabad all had a deficiency approaching 50 per cent; this year the failure has reached this amount only in the United Provinces. If, however, the comparison be made with 1896 the result is less favourable. We have had about the same amount of rain in August but less in June and July. In September and October the similarity in the weakness of the monsoon has been close, and the area affected much the same; but the total rainfall has been less, and in some parts of the country prospects are at present even worse than they were in that year. . . .

"The United Provinces have received only one-half of their normal fall. In the Punjab, Rajputana, Central India and the Central Provinces the deficiency is between 24 and 30 per cent. and in Hyderabad it is 18 per cent. In particular localities there has been still more marked failure; Meerut has received only  $5\frac{1}{2}$  inches of rain as compared with a normal of 28, Delhi  $7\frac{1}{2}$  instead of 25. . . .

• "Serious, however, as the situation is there has not been the same early development of indications of distress as in the other years I have named. In



[1ST NOVEMBER, 1907.]

[*Mr. Miller.*]

October, 1906 there were already 50,000 persons on relief works, in 1899 at the same date owing to the early cessation of the rains there were 250,000. This year relief works have not yet been found necessary anywhere, but liberal and prompt measures have been taken where the failure of crops was most pronounced to meet the difficulties of the people, and to encourage them in their struggles by the free advance of loans for agricultural purposes, and by arranging for suspensions of revenue. The Council are well aware of the moral as well as the material importance, which, as all experience of famine shows, attaches to the adoption of prompt measures of this description. They give confidence to the people, they encourage the continuance of agricultural operations wherever possible, they provide work as for instance in the sinking of wells, and they delay the time at which it becomes necessary for the State to make its own arrangements for the administration of relief. The Government of India have sanctioned upwards of a crore of rupees for agricultural loans in the United Provinces, and we know that arrangements on a liberal scale have been made for the suspension of revenue where necessary, though we do not yet know with what financial result. In parts of these Provinces test works must be opened at an early date, and arrangements are being made for the organization of relief works on an extensive scale, if they should unfortunately become necessary. These arrangements include the collection of additional establishments, the purchase and distribution of tools and the making of baskets for the relief workers, the recruiting of non-official agency, the organization of private charity, and the drawing up of preliminary lists of persons eligible for gratuitous relief. In other Provinces the distress is not so widespread, but with the holding off of rain the position is daily becoming more serious. A great part of the Punjab is protected by canals, but the sorely tried districts of the south-eastern part of the Province are again threatened with famine, and in the Delhi Division at least actual famine is now inevitable. In a great part of Rajputana and Central India the position is similar and applications for assistance have already been received on behalf of some of the smaller States whose resources are insufficient to enable them adequately to cope with the distress. In Guzerat and the Northern Deccan the autumn crop on unirrigated land is a complete failure, and in parts of the Central Provinces the outlook is very gloomy.

"In Bengal the want of rain is being felt in many parts, and though the reports do not as yet indicate any serious anxiety of widespread scarcity they are weekly becoming more unfavourable; in Madras there is not at present any apprehension of distress, and in Burma prospects have recently much improved, and an excellent rice crop is anticipated. Everywhere however rain is badly required

[*Mr. Miller.*]

[1ST NOVEMBER, 1907.]

either for the present crops or to allow of sowings for the spring crops, and much depends on whether any is soon received.

"During recent years the arrangements for coping with famine have been reconsidered in the light of the experience gained from 1896 onwards in the various droughts with which the country has had to contend. The Famine Codes have been revised, and a special code has been drawn up for use in the States. The responsibility for detecting and taking prompt steps to relieve distress rests with the Local Governments, and the Government of India are aware that they are all watching the situation with great anxiety and are concerting measures where necessary to meet it.

"We have the advantage now of fully systematized arrangements, as well as of the presence of numerous officers who have unfortunately had only too much experience of famine work. We have also better programmes of relief works, and though these can probably never be entirely satisfactory it may be hoped that if the provision of work on a large scale becomes necessary, the labour will be employed with somewhat more useful permanent results than before. We cannot expect that all contingencies have been provided for. Each famine brings its own problems; and modifications are required in the arrangements for solving them, but the general principles on which action should be taken are thoroughly understood, and the details have at the same time been laid down with a clearness not attempted before.

"There are two features of the present scarcity that deserve attention. One is the very high range of prices that has prevailed for many months, and has caused much hardship, especially to the urban population, to the poorer members of the higher castes and to all classes on fixed incomes. Grain has been selling for many months at rates approaching or equalling scarcity rates. On a reference to the prices at two well known marts which are in the heart of distressed areas—Cawnpore and Delhi—I find that the prices of wheat and rice are now distinctly higher than at the same time in 1899, though almost exactly the same as they were in October 1896. There has not, however, been the same rapid rise as occurred in these years between June and October.

"The other feature to which allusion may be made is the great demand there has been in recent times for labour and the great rise in wages. It would be tedious to attempt to illustrate this rise by statistics, but the fact itself is well known: great public works, railways and canals, mills, factories and mines have all made their demands on our labouring population, the supply is barely equal to

[1ST NOVEMBER, 1907.]

[*Mr. Miller.*]

the demand, and the remuneration of unskilled labour has greatly increased in consequence.

"Taken together these two features of the situation seem to suggest that there may possibly be some change in the direction in which relief is most required, that it may not be necessary to provide on quite so large a scale for the unskilled labourer as in former seasons of drought, and that more attention may have to be given to those who are unfitted for such labour as our ordinary relief works will supply.

"A serious feature of all famines, and one which is ever attracting more attention is the destruction of cattle owing to dearth of fodder. This is an exceedingly important problem and at the same time an exceedingly difficult one. The transportation of cattle to grazing grounds and the importation or storing of fodder for the cattle alike present great difficulties, and it cannot be said of any of the measures hitherto taken in this direction that they have been successful in preventing great mortality. The Government of India attach much importance to this question and desire to call the attention of all concerned to the recommendations of the last Famine Commission on the subject, though the Commission attached perhaps more importance to private enterprise in this matter than the present state of private enterprise in the fodder trade justifies. The Government of India hope that all Governments will make timely provision whether by baling and transporting fodder, by throwing open their Forest reserves—measures already taken in the United Provinces—by arranging for the migration or transportation of cattle to grazing grounds, or by forming cattle camps, according as the circumstances of the different tracts suggest, for the preservation of the animals on which the recovery of prosperity by the peasantry when the effects of drought have passed away so greatly depends. The question of cheapening the transport of fodder by rail is under consideration.

"Over 20 years ago the first great Famine Commission expressed the hope that the experience gained then and in the previous famine in Lord Northbrook's time would effectually prevent the repetition of the popular suggestion that one remedy for distress is Government interference with trade. This hope has not been fulfilled, and in spite of the further experience gained since then, of the pronouncements of other Commissions and of the reiteration by Government of its policy of non-intervention, save under very special and exceptional circumstances, proposals in favour of interference with trade are still put forward as often as famine threatens or as prices rise abnormally. It cannot be too clearly understood that the policy of the Government is, as on previous occasions, to leave private enterprise unfettered. The grain merchants are

[Mr. Miller.]

[1ST NOVEMBER, 1907.]

the best allies of the Government in the distribution of the grain supplies of the country. The Government would incur an immense responsibility if it took any step that threatened to dislocate the trade. It has trusted to private enterprise in much more serious situations than the present, at times when such enterprise was less developed than it now is, and it has no intention of altering its general policy of abstention from interference with trade. Restrictions have, it is believed, been imposed or considered in certain States, but the Government trust that the rulers of these States will recognize the harm they are likely to do to themselves in the long run by a policy of intervention.

"In another fortnight we shall be in a better position to estimate the needs of the situation. For the present it is enough to say that every precaution is being taken against surprise, and that preparations are being made to deal with a serious emergency, if it arises, not only in British India, but in the Protected States, the rulers of which have shown on former occasions their readiness to take effective measures for alleviating distress in their territories. I should like to close these remarks with an expression of sympathy with our agricultural population in the calamity that threatens them, and with the people generally in the hard times which high prices bring upon them; and at the same time to express admiration of the spirit of self-reliance and confidence in which the situation is being faced by all classes, as far as our information goes, in the tracts where the distress is most severe."

The Council adjourned *sine die*.

T. W. RICHARDSON,

*Offg. Secretary to the Government of India,*

*Legislative Department.*

SIMLA;

*The 1st November, 1907.*

[*Sir Harvey Adamson; Mr. Erle Richards.*] [3RD JANUARY, 1908.]

### LEGAL PRACTITIONERS (AMENDMENT) BILL.

The Hon'ble SIR HARVEY ADAMSON moved that the Bill further to amend the Legal Practitioners Act, 1879, be taken into consideration.

The motion was put and agreed to.

The Hon'ble SIR HARVEY ADAMSON moved that the Bill be passed.

The motion was put and agreed to.

### INDIAN LIMITATION BILL.

The Hon'ble MR. ERLE RICHARDS said:—"My Lord, the title of the Bill which I now ask leave to introduce appears to be somewhat ambitious. It is the 'Indian Limitation Act', and it might be assumed from that title that this Council was to be asked to embark on a general amendment of the Law of Limitation. I desire at the outset to make it clear that there is no such intention. The Bill is intended primarily to remedy a hardship caused by a recent decision of the Privy Council to which I will return in a moment; to make some amendments ancillary to the Code of Civil Procedure Bill which is now before his Council and which, it is hoped, will be shortly passed into law; and in addition to amalgamate in one enactment the various Acts through which the law is at present scattered. For the rest the amendments are, as is believed, of an unimportant character directed solely to clearing up points as to which there exists a conflict between the various High Courts. The Bill makes no other changes in the law.

"For some years past there has been a difference of opinion as to the period of time within which suits to enforce payment of money secured by mortgages other than English mortgages might be brought: some High Courts have held that the period was sixty years and that the case was governed by Article 147; other High Courts have held that Article 132 applied and that the time was twelve years. The result has been that the law has differed in different Provinces: in some Provinces the sixty years' rule prevailed: in others twelve years was the time allowed. The Privy Council have now decided that the latter view is correct and that the period of limitation for suits of this character all over India is twelve years and no more. This result has caused considerable hardship in the territories within which the sixty years' rule had prevailed. Suits for the enforcement of mortgages which before the decision of the Privy Council would have been within time, have been and must be dismissed by Courts

[3RD JANUARY, 1908.] [Mr. Erle Richards.]

on the ground that they are barred by limitation: and claims under a still larger number of mortgages have become unenforceable owing to the construction now put upon the Statute. Mortgagees relied and were entitled to rely on the view of the law taken by the High Courts of their respective Provinces, and it does not seem fair that they should lose their rights merely because that view has now turned out to be incorrect. The Government of India are of opinion that some provision should be made to meet these cases, and the Bill accordingly proposes that suits in the Provinces in which the sixty years' rule prevailed, may be brought within two years from the passing of the Bill: it also provides for the continuance of pending suits and for the restoration of suits which have been dismissed on the ground of limitation since the date of the Privy Council decision.

"Further amendments, my Lord, are required, as I have said, to make the law of limitation conform to the new proposals in regard to civil procedure. The two Statutes are to some extent interwoven and it is not possible to amend the one without making necessary some amendments in the other. Such of these amendments as are matters of substance have been recommended either by the Select Committee of 1903 or by the Special Committee of 1907 and have been already discussed in connection with the Code of Civil Procedure Bill. Some objection has been taken to the definition of 'moveable property', a definition recommended by the Select Committee of 1903, and that objection will be carefully considered. The other amendments of substance are not, as is thought, of a contentious character. Beyond these, the changes are mere matters of form.

"Another class of amendments is that necessitated by differences entertained by various High Courts as to the construction of the present Act. I have already made reference to one difference which the Privy Council have now finally determined, but there are other cases in which similar conflicts exist—conflicts which may result in the same sort of hardship. It seems most desirable to take an early opportunity of ending these conflicts by legislation. It is believed that the amendments required raise no general questions of importance.

"Other changes in the existing periods of limitation have been suggested to the Government of India but have been rejected on the ground that they raise questions of principle and for that reason, even if beneficial in themselves, are not within the scope of this Bill; such for instance are proposals for the reduction of the period of limitation now given by Articles 145, 146 and 147

[*Mr. Erle Richards.*] [3RD JANUARY, 1908.]

of the existing Act. The tendency of modern legislation is beyond doubt to shorten the time of limitation and on general principles that is a result to be desired. But in India we must proceed slowly: changes of the law in these respects are apt to create hardship, and in many matters, especially in those relating to land, Western legislation is not a safe precedent for India. Moreover, we have in this as in other questions to take into account the great difference in practice in the various Provinces. It has been suggested for instance that the period of sixty years allowed under the existing law for suits for redemption should be curtailed and that, following English law, one uniform period should be enacted for all mortgage-suits: a suggestion which has the support of high authority. But it is clear that in India any such change would have far-reaching results and that however desirable in some Provinces it would be altogether opposed to the habits of the people in others. This is an illustration of the sort of difference to which I have referred. I mention these matters in passing, because they have been the subject of some discussion in connection with the present Bill, but they are not material to the motion before the Council; for the Bill is intended to be restricted and will, I think, be found to be restricted to minor amendments for the most part of a non-contentious character.

"My Lord, if the amendments to which I have called attention were alone in print this Bill would be of small dimensions, but it has been thought desirable to take this opportunity of reprinting the present Limitation Act with the amendments which have been made in it from time to time by the Legislature since 1877 and those now proposed. There are no less than eleven amending Acts already on the Statute-book, and it is from every point of view desirable to substitute one enactment for the twelve, or, if this Bill were passed in the form of an amending Bill only, for the thirteen, in which the law would otherwise be contained. Our Statute-book, if I may use that expression for convenience though it is not accurate in fact, is full of amending Acts: there are some 350 Acts of general application and of these about 120 are amending Acts, many of them making but trifling changes, altering a few words or perhaps a clause or two. The result is that our collection of Statutes has become confused and complicated, and that it is increasingly difficult for those who have to refer to it to find the law with accuracy. The Government of India from time to time issue copies of Acts as amended up to date, but these copies have no authority and the amending volumes are themselves the sources of some confusion. It seems desirable therefore, when opportunity offers, to consolidate Acts, that is, to reprint them as amended, repealing the amending Acts in the manner proposed in the present case and so to simplify the Statute-book.

[3RD JANUARY, 1908.] [Mr. Erle Richards; Mr. Baker.]

'Consolidation' is a long word, but in this connection it means reprinting and nothing more.

"A draft Bill containing the amendments now before this Council and some others put forward for discussion but not adopted, was circulated to Local Governments and others some two months since: but owing to a misunderstanding which has only recently come to my notice, an altogether insufficient interval was allowed for replies. I have to express my regrets to those consulted that this was so. These criticisms with which we are favoured on our legislative proposals are of the utmost value and it would be most unwise for this Council to pass any Act such as this until it had been sufficiently discussed. The Bill as now before this Council is not, as I have said, of a contentious character, but adequate opportunity for discussion must be given before it is passed into law."

The motion was put and agreed to.

The Hon'ble MR. ERLE RICHARDS introduced the Bill.

The Hon'ble MR. ERLE RICHARDS moved that the Bill, together with the Statement of Objects and Reasons relating thereto, be published in the Gazette of India in English and in the local official Gazettes in English and in such other languages as the Local Governments think fit.

The motion was put and agreed to.

### INDIAN TARIFF (AMENDMENT) BILL.

The Hon'ble MR. BAKER moved for leave to introduce a Bill further to amend the Indian Tariff Act, 1894. He said:—The object of this Bill is to give effect to the recommendation of the Excise Commission that the import duty on imported beer and the excise duty on beer made in India should be raised from one anna to two annas a gallon. The present rates have never been altered since they were imposed in 1863 and 1890, respectively. They do not act as a check on consumption. In 1889 the imports were about 3 million gallons, while the breweries in the country turned out about 5 millions. Last year these amounts had risen to about 5 millions and nearly 6 millions, respectively. The Excise Committee found that beer drinking by the native population was on the increase in Madras and Bangalore, and probably also in Burma, and that a commencement of such consumption had recently been observed in parts of Northern India and in Sind. Moreover, beer which is valued at more than Re. 1-4 a gallon, when taxed at one anna a gallon, pays less



[3RD JANUARY, 1908.]

• [Mr. Baker.]

in proportion to its value than it would do under the ordinary tariff rate of 5 per cent. *ad valorem*. This preferential treatment of alcoholic liquors cannot be defended.

“The Bill raises the tariff rate on imported beer to two annas a gallon. The excise duty will be raised to a similar figure by Local Governments under their Excise laws.

“I may add that under the term ‘beer’ I include the other liquors which are classed with it in Schedule III of the Tariff Act, namely, ale and porter, cider and other fermented liquors.”

The motion was put and agreed to.

The Hon'ble MR. BAKER introduced the Bill.

The Hon'ble MR. BAKER moved His Excellency the President to suspend the Rules for the conduct of business to enable the Bill to be passed at the present sitting of the Council. He said :—“This is the usual practice in connection with Tariff measures and is obviously necessary. The intention is that the enhanced duty should come into force at once.”

His Excellency THE PRESIDENT declared the Rules suspended.

The Hon'ble MR. BAKER moved that the Bill be passed.

The motion was put and agreed to.

The Council adjourned to Friday, the 17th January, 1908.

J. M. MACPHERSON,  
Secretary to the Government of India,  
Legislative Department.

CALCUTTA:

The 3rd January, 1908.

*Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Indian Councils Acts, 1861 and 1892 (24 & 25 Vict., c. 67, and 55 & 56, Vict., c. 14).*

The Council met at Government House, Calcutta, on Friday, the 17th January, 1908.

PRESENT :

His Excellency the Earl of Minto, P.C., G.C.M.G., G.M.S.I., G.M.I.E., Viceroy and Governor General of India, *presiding*.

His Excellency General Viscount Kitchener of Khartoum, G.C.B., O.M., G.C.M.G., G.C.I.E., Commander-in-Chief in India.

The Hon'ble Mr. H. Erle Richards, K.C.

The Hon'ble Mr. E. N. Baker, C.S.I.

The Hon'ble Major-General C. H. Scott, C.B., R.A.

The Hon'ble Sir Harvey Adamson, Kt., C.S.I.

The Hon'ble Mr. J. F. Finlay, C.S.I.

The Hon'ble Mr. J. O. Miller, C.S.I.

The Hon'ble Sir Rameshwara Singh, K.C.I.E., Maharaja Bahadur of Darbhanga.

The Hon'ble Munshi Madho Lal.

The Hon'ble Mr. Gangadhar Rao Madhav Chitnavis, C.I.E.

The Hon'ble Mr. H. W. W. Reynolds.

The Hon'ble Mr. F. A. Slacke, C.S.I.

The Hon'ble Mr. H. A. Sim, C.I.E.

The Hon'ble Tikka Sahib Ripudaman Singh of Nabha.

The Hon'ble Dr. Rashbehary Ghose, C.I.E., D.L.

The Hon'ble Mr. Gopal Krishna Gokhale, C.I.E.

The Hon'ble Mr. A. A. Apcar, C.S.I.

The Hon'ble Mr. S. Ismay, C.S.I.

The Hon'ble Maung Bah Too, K.S.M.

The Hon'ble Mr. W. W. Drew.

The Hon'ble Nawab Saiyid Muhammad Sahib Bahadur.

The Hon'ble Mr. W. R. H. Merk, C.S.I.

[17TH JANUARY, 1908.] [Sir Harvey Adamson; Mr. Richards.]

### CORONERS (AMENDMENT) BILL.

The Hon'ble SIR HARVEY ADAMSON moved that the Bill further to amend the Coroners Act, 1871, and the Prisoners Act, 1900, be referred to a Select Committee consisting of the Hon'ble Mr. Richards, the Hon'ble Mr. Gokhale, the Hon'ble Mr. Apcar, the Hon'ble Mr. Drew and the mover.

The motion was put and agreed to.

### CODE OF CIVIL PROCEDURE BILL.

The Hon'ble MR. RICHARDS moved that the Bill to consolidate and amend the law relating to the Procedure of the Courts of Civil Judicature be referred to a Select Committee consisting of the Hon'ble Munshi Madho Lal, the Hon'ble Mr. Sim, the Hon'ble Dr. Rashbehary Ghose, the Hon'ble Mr. Ismay, the Hon'ble Maung Bah Too and the mover.

The motion was put and agreed to.

### INDIAN TRUSTS (AMENDMENT) BILL.

The Hon'ble SIR HARVEY ADAMSON moved that the Bill further to amend the law relating to Private Trusts and Trustees be taken into consideration.

The motion was put and agreed to.

The Hon'ble SIR HARVEY ADAMSON moved that the Bill be passed.

The motion was put and agreed to.

The Council adjourned to Friday, the 31st January, 1908.

J. M. MACPHERSON,  
Secretary to the Government of India,  
Legislative Department.

CALCUTTA;  
The 17th January, 1908.

*Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Indian Councils Acts, 1861 and 1892 (24 & 25 Vict., c. 67, and 55 & 56 Vict., c. 14).*

The Council met at Government House, Calcutta, on Friday, the 31st January, 1908.

PRESENT :

His Excellency the Earl of Minto, P.C., G.C.M.G., G.M.S.I., G.M.I.E., Viceroy and Governor General of India, *presiding*.

His Honour Sir Andrew Fraser, K.C.S.I., Lieutenant-Governor of Bengal.

His Excellency General Viscount Kitchener of Khartoum, G.C.B., O.M., G.C.M.G., G.C.I.E., Commander-in-Chief in India.

The Hon'ble Mr. H. Erle Richards, K.C.

The Hon'ble Mr. E. N. Baker, C.S.I.

The Hon'ble Sir Harvey Adamson, Kt., C.S.I.

The Hon'ble Mr. J. F. Finlay, C.S.I.

The Hon'ble Mr. J. O. Miller, C.S.I.

The Hon'ble Sir Rameshwara Singh, K.C.I.E., Maharaja Bahadur of Darbhanga.

The Hon'ble Munshi Madho Lal.

The Hon'ble Mr. Gangadhar Rao Madhav Chitnavis, C.I.E.

The Hon'ble Mr. H. W. W. Reynolds.

The Hon'ble Mr. F. A. Slacke, C.S.I.

The Hon'ble Mr. H. A. Sim, C.I.E.

The Hon'ble Tikka Sahib Ripudaman Singh of Nabha.

The Hon'ble Dr. Rashbehary Ghose, C.I.E., D.L.

The Hon'ble Mr. Gopal Krishna Gokhale, C.I.E.

The Hon'ble Mr. A. A. Apcar, C.S.I.

The Hon'ble Mr. S. Ismay, C.S.I.

The Hon'ble Maung Bah Too, K.S.M.

The Hon'ble Mr. W. W. Drew.

The Hon'ble Nawab Saiyid Muhammad Sahib Bahadur.

The Hon'ble Mr. W. R. H. Merk, C.S.I.

QUESTION AND ANSWER.

The Hon'ble MR. GOKHALE asked :—

“(a) Has the Government of India received a telegram from the Indian settlers in the Transvaal, seeking its protection and asking for its intervention in

(Mr. Gokhale; Mr. Finlay.) [31ST JANUARY, 1908.]

their favour against the injustice and indignities to which they are being subjected under the Asiatic Registration Act in the Transvaal?

"(b) Is the Government aware of the depth and intensity of public feeling that has been aroused in this country in all quarters by the arrest and imprisonment of several Indian subjects of His Majesty the King Emperor in the Transvaal under the Asiatic Registration Act?

"(c) Will the Government be pleased to state what steps it has already taken or it proposes to take to bring this state of public feeling in India to the notice of His Majesty's Government in England and to secure for the Indian settlers in the Transvaal the protection that they seek at its hands?"

The Hon'ble MR. FINLAY replied :—

"(a) The Government of India have not received any telegram from the Indian settlers in the Transvaal. But they have received papers from the Secretary of State which include a telegram from British Indians in the Transvaal to the Secretary of State for the Colonies to the effect stated in the question. They have also received numerous representations from persons and bodies in other parts of South Africa and in India.

"(b) The Government of India are fully aware of the depth and intensity of public feeling which has been aroused in India and are grateful to the various bodies and individuals, representing so many classes and creeds in this country, who have taken so much trouble to keep them informed of the views taken of the legislation affecting Asiatics in the Transvaal.

"(c) The matter has received throughout the careful consideration of the Government of India. They are in full sympathy with the Indian subjects of His Majesty in whatever part of the world they may be, and though they are obviously not in a position to pronounce authoritatively on the merits of the situation in the Transvaal they have let no opportunity pass of keeping His Majesty's Government informed of the state of feeling in India with regard to that situation and of pleading the cause of the different sections of the Indian community in South Africa whenever it appeared that the status and privileges of Indian emigrants as subjects of the British Empire were affected.

"The Government of India have good reason to hope that negotiations now in progress will result in the removal of the just grievances of His Majesty's Indian subjects."

[31ST JANUARY, 1908.] (Sir Harvey Adamson.)

CORONERS (AMENDMENT) BILL.

The Hon'ble SIR HARVEY ADAMSON presented the Report of the Select Committee on the Bill further to amend the Coroners' Act, 1871, and the Prisoners Act, 1900.

The Council adjourned to Friday, the 14th February, 1908.

J. M. MACPHERSON,  
Secretary to the Government of India,  
Legislative Department.

CALCUTTA ;  
The 31st January, 1908. }



*Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Indian Councils Acts, 1861 and 1892 (24 & 25 Vict., c. 67, and 55 & 56 Vict., c. 14).*

The Council met at Government House, Calcutta, on Friday, the 14th February 1908.

PRESENT :

His Excellency the Earl of Minto, P.C., G.C.M.G., G.M.S.I., G.M.I.E., Viceroy and Governor General of India, *presiding*.

His Honour Sir Andrew Fraser, K.C.S.I., Lieutenant-Governor of Bengal.

His Excellency General Viscount Kitchener of Khartoum, G.C.B., O.M., G.C.M.G., G.C.I.E., Commander-in-Chief in India.

The Hon'ble Mr. H. Erle Richards, K.C.

The Hon'ble Mr. E. N. Baker, C.S.I.

The Hon'ble Major-General C. H. Scott, C.B., R.A.

The Hon'ble Sir Harvey Adamsōn, Kt., C.S.I.

The Hon'ble Mr. J. O. Miller, C.S.I.

The Hon'ble Munshi Madho Lal.

The Hon'ble Mr. Gangadhar Rao Madhav Chitnavis, C.I.E.

The Hon'ble Mr. H. W. W. Reynolds.

The Hon'ble Mr. F. A. Slacke, C.S.I.

The Hon'ble Mr. H. A. Sim, C.I.E.

The Hon'ble Tikka Sahib Ripudaman Singh of Nabha.

The Hon'ble Dr. Rashbehary Ghose, C.I.E., D.L.

The Hon'ble Mr. A. A. Apcar, C.S.I.

The Hon'ble Mr. S. Ismay, C.S.I.

The Hon'ble Maung Bah Too, K.S.M.

The Hon'ble Mr. W. W. Drew.

The Hon'ble Mr. W. R. H. Merk, C.S.I.

CORONERS (AMENDMENT) BILL.

The Hon'ble SIR HARVEY ADAMSON moved that the Report of the Select Committee on the Bill further to amend the Coroners Act, 1871, and the Prisoners Act, 1900, be taken into consideration.

The motion was put and agreed to.

The Hon'ble SIR HARVEY ADAMSON moved that the Bill, as amended, be passed.

The motion was put and agreed to.



[Mr. Erle Richards.] [14TH FEBRUARY, 1908.]

## CODE OF CIVIL PROCEDURE BILL.

The Hon'ble MR. ERLE RICHARDS:—"My Lord, I have the honour to present the Report of the Select Committee on the Bill to consolidate and amend the laws relating to the procedure of the Courts of Civil Judicature, and annexed to it a copy of the Bill in which the amendments suggested by the Committee are shown in italicised type.

"It will be seen from these papers that the Committee recommend no alterations of a radical kind in the Bill as settled by the Committee which sat at Simla during the past summer. There are a number of amendments of detail suggested which taken together effect a substantial improvement; but the main lines of the Bill have been accepted.

"The principal feature of novelty in the Bill as introduced is the rearrangement of the clauses and the relegation of minor provisions to a schedule which can be amended or added to by High Courts subject to the advice of Rule Committees. This proposal has met with general acceptance. Local Governments and High Courts are at one in thinking that it will effect a valuable improvement in the machinery of our civil procedure, and the Committee agree with them.

"Two amendments have been introduced in that part of the Bill which deals with the rule-making power. The first is the insertion of a proviso that rules before being made are to be published, with the result that under section 23 of the General Clauses Act there will be an opportunity for the public to criticise any proposals before they become law. This suggestion was put forward by the British Indian Association, and the Committee think that it is one of value. The second change is in the composition of the Rule Committees. It has been pointed out that the Rule Committees ought to have among their members some gentlemen in touch with mufassal practice. The Bill as introduced provided that one of the Judges on the Committee should have had mufassal experience, but the Committee think that this in itself is hardly sufficient. They suggest therefore that there should be a Subordinate Judge on each Rule Committee and that there should be power also to appoint a vakil or pleader practising in the mufassal. They further recommend that the Bill should not come into operation at once on passing but that there should be an interval allowed in order that the public and profession may make themselves acquainted with the new arrangement.

"The amendments of the other provisions of the Bill do not call for any special mention on the present occasion. Many of them are in the nature of

*CODE OF CIVIL PROCEDURE; LIMITATION.*

195

[*Mr. Erle Richards.*] [14TH FEBRUARY, 1908.]

corrections or improvements of drafting. Since the Bill was introduced in this Council it has been once more examined and revised by some of our Colleagues and the criticisms on it have been carefully considered and digested in the Legislative Department. In that way the work of the Committee has been much lessened. This is the fourth Committee which has now deliberated on civil procedure, and it is safe to say that there is no conceivable point which has not been fully discussed during those deliberations. I would point out, my Lord, that the present Committee, like the Simla Committee, are unanimous in their approval of this Bill."

INDIAN LIMITATION BILL.

The Hon'ble Mr. ERLE RICHARDS moved that the Bill to consolidate and amend the Law for the Limitation of Suits and for other purposes be referred to a Select Committee consisting of the Hon'ble Sir Harvey Adamson, the Hon'ble Munshi Madho Lal, the Hon'ble Mr. Chitnavis, the Hon'ble Dr. Rashbehary Ghose, the Hon'ble Mr. Ismay and the mover, with instructions to report within two months.

The motion was put and agreed to.

The Council adjourned to Friday, the 6th March, 1908.

J. M. MACPHERSON,

*Secretary to the Government of India,  
Legislative Department.*

CALCUTTA;

*The 14th February, 1908.*



*Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Indian Councils Acts, 1861 and 1892 (24 & 25 Vict., c. 67, and 55 & 56 Vict., c. 14).*

The Council met at Government House, Calcutta, on Friday, the 13th March, 1908.

PRESENT :

His Excellency the Earl of Minto, P.C., G.C.M.G., G.M.S.I., G.M.I.E., Viceroy and Governor General of India, *presiding*.

His Honour Sir Andrew Fraser, K.C.S.I., Lieutenant-Governor of Bengal.

His Excellency General Viscount Kitchener of Khartoum, G.C.B., O.M., G.C.M.G., G.C.I.E., Commander-in-Chief in India.

The Hon'ble Mr. H. Erle Richards, K.C.

The Hon'ble Mr. E. N. Baker, C.S.I.

The Hon'ble Major-General C. H. Scott, C.B., R.A.

The Hon'ble Sir Harvey Adamson, Kt., C.S.I.

The Hon'ble Mr. J. O. Miller, C.S.I.

The Hon'ble Mr. W. L. Harvey, C.I.E.

The Hon'ble Munshi Madho Lal.

The Hon'ble Mr. Gangadhar Rao Madhav Chitnavis, C.I.E.

The Hon'ble Mr. H. W. W. Reynolds.

The Hon'ble Mr. H. A. Sim, C.I.E.

The Hon'ble Tikka Sahib Ripudaman Singh of Nabha.

The Hon'ble Dr. Rashbehary Ghose, C.I.E., D.L.

The Hon'ble Mr. Gopal Krishna Gokhale, C.I.E.

The Hon'ble Mr. A. A. Apcar, C.S.I.

The Hon'ble Mr. S. Ismay, C.S.I.

The Hon'ble Maung Bah Too, K.S.M.

The Hon'ble Mr. W. W. Drew.

The Hon'ble Nawab Saiyid Muhammad Sahib Bahadur.

The Hon'ble Mr. W. R. H. Merk, C.S.I.

QUESTION AND ANSWER.

The Hon'ble TIKKA SAHIB RIPUDAMAN SINGH of Nabha asked :—

"(a) With reference to my question with regard to the Imperial Service Troops, and reply given to it by His Excellency the Commander-in-Chief on the

\* NOTE.—The Meeting of Council which was fixed for the 6th March, 1908, was subsequently postponed to the 13th *idem*.

[*Tikka Sahib of Nabha ; the Commander-in-Chief ;* [13TH MARCH, 1908.]  
*Sir Harvey Adamson ; Mr. Chitnavis.*]

1st February, 1907, will Government be pleased to state what changes have been made in them since last year ?

“(b) Will Government be pleased to state if any of the States have increased or reduced their Imperial Service Troops during the last year, and, if so, will it mention the name of the State or States, and also by what proportion they have reduced or increased their Imperial Service Troops ?”

His Excellency THE COMMANDER-IN-CHIEF replied :—

“(a) His Highness the Raja of Tehri has raised a company of Imperial Service Sappers. No other change has taken place.

“(b) The Hon'ble Member's question (b) is answered by the reply just given.”

The Hon'ble TIKKA SAHIB RIPUDAMAN SINGH of Nabha asked :—

“With reference to my question asked in the Council on the 1st February, 1907, will Government be pleased to state if, since then, they have received further papers from, or ‘final report’ of, the ‘Plague Research Committee,’ and, if so, will Government be pleased to lay all the papers on the Council table ?”

The Hon'ble SIR HARVEY ADAMSON replied :—

“Since February, 1907, the Government of India have received the following papers regarding plague investigations in India :—

(i) The Journal of Hygiene, Volume 7, No. 3, July, 1907.

(ii) Major Lamb's Summary of the conclusions of the Plague Commission.

(iii) The Journal of Hygiene, Volume 7, No. 6, December, 1907.

“No final report of the Plague Research Commission has yet been received, and its labours are not yet concluded. The above-mentioned papers are laid on the table.”

The Hon'ble MR. CHITNAVIS asked :—

“Has the attention of Government been drawn to the Resolutions of the successive provincial Conferences of the Central Provinces, giving expression to the dissatisfaction of the people of those provinces at the present system of annual assessment of the income-tax ? In view of the general desire of the local public, will the Government be pleased to replace the existing system of

[13TH MARCH, 1908.] [Mr. Chitnavis; Mr. Baker; Mr. Miller.]

assessment by the system of triennial assessments which prevailed in those provinces before?"

The Hon'ble MR. BAKER replied :—

"The Government of India have noticed the Resolutions passed by the 1st and 3rd Provincial Conferences of the Central Provinces. A system of triennial assessments was formerly in force in the Central Provinces owing to the existence of the pandhri-tax, which was levied on petty traders and manufacturers whose incomes amounted to Rs. 250 a year or more. The large number of assesseees made it impracticable for the district staff to cope with the work which would have been entailed by annual assessments. On the abolition of that tax in 1902 it was decided, after a full experience of the operation of triennial assessments, to adopt the system of annual assessments contemplated by section 15 of the Income-tax Act of 1886 and prevailing in other areas where that Act is in force. The former practice had the necessary consequence that assessments, owing to the fluctuating nature of many of the incomes assessed, fell unequally on the persons taxed, and the Government of India see no reason to revert to it."

The Hon'ble MR. CHITNAVIS asked :—

"Is it true that an amendment of the Central Provinces Tenancy Act is contemplated by Government? If so, will Government be pleased, in consultation with the Hon'ble the Chief Commissioner of the Central Provinces, to remove the just grievances of the malguzars by amending the provisions relating to *khudkast* lands on the lines suggested in their memorials to the Local Government, as also section 61 of the Act which operates with unusual rigour on tenants in their relations with sub-tenants, as pointed out in the presidential speech delivered at the Jubbulpur Conference, held on 14th April, 1906?"

The Hon'ble MR. MILLER replied :—

"No proposals for the amendment of the Central Provinces Tenancy Act have been received by the Government of India, and it is understood that the Local Administration consider the amendment of the Land-revenue Act a matter of greater urgency. The Government of India have no doubt that when these Acts are amended all suggestions for their improvement will receive the most careful consideration from the Local Administration."

The Hon'ble MR. CHITNAVIS asked :—

"In view of the pronounced desire of the people for a provisional embargo upon exports of food-grains from the country as a remedial measure in times of

[*Mr. Chitnavis ; Mr. Miller.*] [13TH MARCH, 1908.]

distress, will Government be pleased to consider if it would be desirable to temper, if only provisionally, its policy in these days of abnormal prices?"

The Hon'ble MR. MILLER replied :—

"The question raised by the Hon'ble Member is one which has been considered by the Government of India on every occasion on which this country has been threatened with serious famine, with all the care which its importance demands, and with full regard to the fact that interference with trade on such occasions would be in accordance with views which are widely and earnestly held by influential classes of the people. Not only has the policy to be followed been carefully considered at the beginning of periods of distress, when popular opinion, and not infrequently official opinion, was in favour of some measure of interference, but it has been impartially examined in the light of facts and of the experience gained during successive famines by the officers or Commissions appointed to report on the lessons to be learned; and there has been no difference of opinion as to what those lessons teach. The conclusion was arrived at in 1873 that, 'nothing could justify recourse' to such a measure as the Hon'ble Member suggests 'unless it were a certainty or a reasonable probability that exports of food will so exhaust the resources of India as to render them incapable of affording the supplies which may be required for affected districts,' and all subsequent investigation has confirmed this view.

"During the thirty years which have passed since that time there has been a remarkable development of communications and of trade, and the experience of each successive famine has shown how greatly relief measures have been assisted and suffering has been mitigated by the freedom from restraint which has encouraged private enterprise to take advantage of the facilities offered to it. Interference would involve disorganisation of trade and discouragement of the agriculturist at the very time when it is essential to the welfare of the country that the producing and the distributing agencies alike should have every stimulus given to their activity. To mention only one result, a policy of placing an embargo on the export of food-grains would encourage that tendency to substitute non-food crops for food crops of which frequent complaint has been made in the vernacular Press, as a contributory cause of the present high prices. Interference with exports might produce at the beginning of a famine an artificial cheapness, but it is by no means certain that even this result would be attained to any material extent, and it is certain that the cheapness would not be permanent. The exports from India amount

[13TH MARCH, 1908.]

[*Mr. Miller.*]

to but a small proportion of its production, and experience gives no warrant whatever for the supposition that the trade is unable to regulate them to the best advantage of the country. For example, the exports of wheat, which in a good year may be as much as fifteen or twenty million hundredweight, shrank in 1896-97 and 1897-98, to about two millions, while in 1900-01 the export trade practically ceased to exist, only 50,000 hundredweight leaving the country. In the case of rice the fluctuations are not so extraordinary, but they are very great; in a good year exports from the whole of India have been as high as forty-nine million hundredweight, in bad seasons they have fallen to less than thirty millions. The export trade encourages production and creates a reserve which can be drawn upon in time of scarcity—a reserve which, but for that encouragement, would not exist. The failure of the monsoon in India creates a demand for Burma rice at prices with which foreign countries cannot compete. In 1903-04 and 1904-05, when crops were generally good, Burma exported to foreign countries 33 and 38 million hundredweight of rice respectively, while India took only four and six millions. In 1906-07, when there was a demand from India, the exports to foreign countries fell below thirty millions, and the exports from Burma to India rose to sixteen millions; in the present year, judging from ten months' statistics, this feature of the trade will probably be still more marked. The course of the wheat trade in the present year may be referred to as a further illustration. During the early part of the year the trade was brisk, and continued to be so up to October, by which time it was evident that there would be severe scarcity in India. In November the exports were less than half of the average for that month in the three preceding years. In December the proportion was much lower, while in January only sixty thousand hundredweight were exported compared with a three years' average for that month of close on a million and a half.

"The policy which the Hon'ble Member apparently supports does not, it is understood, stop short at interference with exports from India. It extends to placing restrictions on exports from one State or Province or even from one district to another, and recommendations to that effect have been made not only by the public but by officers of Government impressed by the seriousness of the outlook, as for example in 1873, when the Lieutenant-Governor of Bengal suggested the prohibition of the export of rice from that province. In a year like the present, when the deficiency of food supplies in the United Provinces is being met by imports from the surplus stock of Burma on the one side and the Punjab on the other,—the two provinces which contribute by far the largest share to the foreign export trade in rice and wheat respectively,—it



[*Mr. Miller ; Mr. Chitnavis ; Mr. Baker.*] [13TH MARCH, 1908.]

seems scarcely conceivable that there should be any advocates of a policy that would obstruct the trade to which these beneficial results are due. But experience shows that the demand for the regulation of exports does in fact extend to a demand for the enforcement of local restrictions, and to transferring from the trade to some official agency the responsibility of determining whether the circumstances of the country require the transport of grain from one local area to another. This is a responsibility which no Government would except in the last resort undertake.

"The Hon'ble Member correctly refers to prices as being now abnormally high. Prices are excessively high, and the Government of India are fully conscious of the distress caused by dearness of food and sympathise with the sufferers. But they have no doubt that the effect of interference with trade would only be to aggravate difficulties that must be faced, and they adhere now to the policy which they have consistently adopted in the past in the presence of more serious calamities and at a time when they could not expect from the operations of trade the same measure of assistance in coping with scarcity that they now obtain."

The Hon'ble MR. CHITNAVIS asked :—

"In view of the abnormal and general rise in prices during the past few years, will the Government be pleased to appoint a joint committee of officials and non-officials to inquire into the causes to which such rise is due with a view to the removal of such of them as may be capable of administrative treatment?"

The Hon'ble MR. MILLER replied :—

"The Government of India are well aware of the importance of the subject and have already had under their consideration the question of making enquiry into the causes of the present high range of prices, but have not yet come to any final decision in the matter. Should they decide that enquiry is advisable, they will gladly consider the Hon'ble Member's suggestions as to the appointment of a committee."

The Hon'ble MR. CHITNAVIS asked :—

"In order to relieve the distress of the middle classes, more or less encumbered with a large number of dependants, due to increased cost of living, will the Government be pleased to consider the desirability of further raising the assessable minimum under the Indian Income-tax Act to Rs. 2,000 a year?"

The Hon'ble MR. BAKER replied :—

"The Government of India are not prepared to entertain the suggestion embodied in the Hon'ble Member's question."

[13TH MARCH, 1908.] [Sir Harvey Adamson.]

## WHIPPING (AMENDMENT) BILL.

The Hon'ble SIR HARVEY ADAMSON moved for leave to introduce a Bill further to amend the Whipping Act, 1864, and the Code of Criminal Procedure, 1898. He said :—

"In the progress of public opinion the infliction of whipping as a judicial punishment comes to be regarded with ever-increasing disfavour. The object of this Bill is to mitigate the severity of the Whipping Act and to bring it into line with public opinion of the present day. In India the time has not arrived when whipping as a judicial punishment can be altogether dispensed with. Indeed, that stage has not yet been reached in Western countries. In England whipping is still retained as a punishment in the case of adults for certain forms of robbery with violence such as garrotting, and in the case of juveniles for all indictable offences other than homicide. I am far from suggesting that what is suitable for England must necessarily be suitable for India. There could be no greater mistake than to adopt such a principle indiscriminately as a basis for legislation. But human nature is pretty much the same throughout the world, and the efficacy of whipping as a punishment is essentially a question of human nature. What has been done in England may therefore in this case be a useful guide as to what ought to be done in India. In England a hundred years ago whipping was inflicted for many offences. Its use has gradually dwindled down to the proportions which I have stated, without in any way prejudicing the safety of the community. Experience has shown that for most offences which were formerly punished with whipping a less revolting penalty is more efficacious. The history of Indian jails tends to the same conclusion. I can well remember that when I first arrived in India thirty years ago, whipping of a very severe nature was freely resorted to in jails as a punishment for very trivial offences. It is now inflicted as a jail punishment on rare occasions and only for serious offences. Yet the discipline of Indian jails is much better now than it was thirty years ago. I must not be misunderstood as implying that, as regards the frequency and barbarity of corporal punishment, there is any similitude between India of the present day and England of a hundred years ago." On the contrary, the Whipping Act of 1864, as it now stands, is on the whole a very humane Act. But as years advance public opinion advances, and humane on the whole though the Act may be, we think that the time has now arrived when it should be laid on the legislative anvil with a view to being moulded into what, in the light of Eastern and Western experience, is a closer conformity to the trend of public opinion and the requirements of the present day.

[Sir Harvey Adamson.] [13TH MARCH, 1908.]

"There is one point, however, in respect of which there is a complete difference between England and India. I refer to the system of imprisonment in jails. In England all short-term sentences are of the nature of solitary confinement. The prisoner is isolated and has no opportunity of associating with his fellow-prisoners. In India, on the contrary, the system is one of association. The prisoner works in a gang and associates day and night with other prisoners. The prisoner in India is thus liable to evil contamination from which in England he is free. That this is a defect in the Indian system of prison administration is generally admitted. But it is a defect that cannot be immediately cured. Much has been done in recent years to provide cellular accommodation in jails, so as to save prisoners from the deteriorating influence of their more hardened fellow-convicts. But this is a work which requires a long time to complete, and the expenditure of an immense amount of money, and the position at present is that in Indian jails the complete segregation of prisoners is impossible. This condition renders it undesirable to proceed to the abolition of whipping as a judicial punishment to the same extent as has been done in England. It is better to whip a casual thief than to submit him to prison associations from which he will probably emerge as a hardened thief.

"It would of course be possible to carry this line of argument too far. It might be contended that for similar reasons it is better to whip all unhardened offenders than to imprison them. Such a course is clearly inadmissible. It would shock the public conscience and for obvious reasons is undesirable. We are convinced that whipping should be restricted to offences of a degrading nature, and that it never should be administered where it is likely to outrage self respect. We also think that it is an unsuitable punishment for any offence that is not of an active and daring character. For instance, we regard whipping as an appropriate punishment for casual and ordinary theft, but as an inappropriate punishment for receiving stolen property or for the special class of theft which is defined in the Penal Code as theft by a clerk or servant. For these reasons the Bill amends section 2 of the Whipping Act by excluding from whipping the offences of theft by a clerk or servant, extortion by threat, extortion by putting a person in fear of accusation, dishonestly receiving stolen property and dishonestly receiving property acquired in the commission of dacoity.

"We propose to repeal section 3 of the Act which permits whipping as an additional punishment in the case of second convictions of offences which are punishable under section 2 with whipping as a sole alternative penalty. We

[13TH MARCH, 1908.] [Sir Harvey Adamson.]

think that when in cases of this kind the Magistrate has come to the conclusion that the offence calls for a punishment of imprisonment nothing is gained by adding whipping to the sentence. I may observe that the repeal of this section will not prohibit the Magistrate from awarding whipping in lieu of imprisonment on second convictions of offences specified in section 2 as amended. I must admit that the proposed repeal of this section has not been cordially accepted by some Local Governments. It is urged that its repeal will weaken to an undesirable extent the hands of the authorities in the suppression of crimes against property. But it appears to us that this argument could be used against any mitigation of the Whipping Act, and that the history of whipping as a punishment and its influence on crime does not support the contention.

"The next point that I am to mention is one in respect of which I do not anticipate that there will be much difference of opinion. Whipping is a punishment that is peculiarly suited to brutal, cruel and sordid offences involving personal violence. The circumstances of each country must of course determine what crimes of this nature are of such prevalence as to call for this form of punishment. Naturally they will vary in different countries. In England, as I have stated, robbery with violence is the type of crime against which the public require a special protection, and the punishment awardable for crimes of this nature is whipping combined with imprisonment for either first or subsequent offences. In India the most prevalent crimes of a brutal, cruel and sordid nature, against which special protection appears to be desirable, are rape, robbery with hurt, and dacoity. These and these alone we have included in this category. The Bill follows the analogy of English law and permits a combination of whipping with imprisonment whether on first or on subsequent conviction. The provision will be found in clause 3 of the Bill. The substitution of this clause for section 4 of the Act, while giving to society the protection of an enhanced penalty in the case of those brutal and daring crimes, abolishes whipping on second conviction for a large number of offences, of which the chief are false evidence, false charges of offences, assault with intent to outrage modesty, unnatural offences, habitual dealing in stolen property, and forgery.

"In respect of juvenile offenders the Bill alters the present law by mitigating the severity of whipping. It limits the punishment to fifteen stripes instead of thirty, and it enables the Governor General in Council to exclude juveniles from whipping by notification for such offences falling under the Indian Penal Code as he may think fit.

"Finally the Bill restricts the power of whipping to first class Magistrates instead of as at present to first class Magistrates and specially empowered second class Magistrates.

[*Sir Harvey Adamson; Mr. Erle Richards.*] [13TH MARCH, 1908.]

"I need scarcely say that in no case under the Bill is whipping a compulsory punishment. Wherever it may be inflicted, it is optional, at the discretion of the Magistrate.

"I think that public opinion in India regards whipping as a necessary and proper punishment for certain classes of offences, but as an unsuitable punishment for members of the respectable and educated classes. I am not disposed to quarrel with this view. It is but an expression of what I have already said, that whipping should never be inflicted where it is likely to outrage self-respect. But it is impossible to define by law the classes of people who may be whipped. This must be left to the good sense of the Magistracy, supplemented it may be by such general instructions as High Courts may deem fit to issue:

"The net result of the amendments contained in the Bill is that the power of whipping is confined to first class Magistrates, and that in respect of adults whipping is retained as a sole punishment for ordinary thefts and kindred offences of an active and daring character, and as a sole or combined punishment for a very limited number of offences of violence of a brutal and sordid nature, while in respect of juveniles it is retained in a less severe form. I trust that the Bill will be found to conform with public opinion in India, and that its lenity will not render the law less capable of suppressing crime."

The motion was put and agreed to.

The Hon'ble SIR HARVEY ADAMSON introduced the Bill.

The Hon'ble SIR HARVEY ADAMSON moved that the Bill, together with the Statement of Objects and Reasons relating thereto, be published in the Gazette of India in English, and in the local official Gazettes in English and in such other languages as the Local Governments think fit.

The motion was put and agreed to.

#### CODE OF CIVIL PROCEDURE BILL.

The Hon'ble Mr. ERLE RICHARDS said: "My Lord, on the occasion, six months ago, when I had the honour of introducing this Bill in Council, I explained at some length the general scheme of arrangement and the nature of the more important of the changes which it seeks to effect in the existing law. I do not propose to repeat those observations today, they will be found reported in the chronicles of this Council, and it is the less necessary to recall them because the Bill has been generally accepted by the public and the legal profession and is not opposed in this Council. It will be recollected that

[13TH MARCH, 1908.]

[Mr. Erle Richards.]

this Bill departs from the arrangement of former Codes in that it makes a division between clauses and rules, the former consisting of the general principles of procedure and of those provisions which must necessarily be uniform throughout India ; the latter containing provisions of minor importance which may properly be varied to suit local conditions ; and that as a corollary to that division, there is a power given to High Courts, subject to the advice of Rule Committees, to alter the rules and to make new rules to cure defects or to meet cases which are now unprovided for. This proposal has met with the almost unanimous approval of Local Governments and of High Courts and there appears to be a general consensus of opinion that it is a change of procedure which is likely to have beneficial results. The amendments on other points have also been commonly accepted. It is impossible that in regard to the details of procedure there should be complete agreement, but the great majority of our critics are in favour of the main changes that are proposed.

“ Since the Bill was introduced in this Council it has been subjected to a careful re-examination and many minor amendments have been introduced. To the more important of these, attention is called in the Report of the Select Committee, and I do not think that I can with advantage refer to them further on the present occasion. The forms in the Schedule were not in a complete state when the Bill was first before Council, but they have since been amended and brought up to date and they are now a valuable addition to the Bill. The Government are much indebted to our Hon'ble Colleague Mr. Ismay for the trouble he has taken over this matter, and they desire also to express their thanks to Mr. Bakewell of Madras who has been good enough to allow them to make use of some of the forms in his book on Mortgages.

“ If the motion which I shall presently make is carried, I desire to move the amendments which stand in my name on the notice-paper ; they are more or less of a formal character and do not affect the substance of the Bill.

“ A good many of our critics have drawn attention to the question of the service of process—a question to which I referred in introducing this Bill. Beyond doubt the abuses which are inherent in our present system demand prompt remedy, but reform in this matter can hardly be effected by legislation ; it is for Local Governments rather than the Legislature to effect an improvement. The Bill gives power to authorise service by the post, and that is an experiment which may be thought worth trial in selected areas. The whole subject is obviously one of difficulty, but I cannot think that improvement is impossible.

“ Another matter to which attention was called by the Report of the Simla Committee, but which finds no place in the Bill, is the amendment in regard to

[*Mr. Erle Richards; Mr. Ismay.*] [13TH MARCH, 1908.]

charities proposed in that Committee by our Hon'ble Colleague Dr. Rashbehary Ghose. He desired to add to clause 92 a provision empowering persons interested in any charity to apply summarily for an account of the receipts and expenditure of the funds of the charity. Under the clause as it stands, as under the existing law, any interested person, with the sanction of the Advocate General, can institute a suit against the trustees of a charity and in that suit can obtain an order for accounts; but our Hon'ble Colleague points out that there are difficulties in the way of instituting suits and that it is not easy to know whether there has been such a breach of trust as will found a suit, unless some accounts are available for inquiry. He argues that trustees under the present law are bound to keep and to render accounts, and that his amendment merely provides a means of obtaining expeditiously that which the law already gives by the cumbrous process of a suit. The Simla Committee expressed some sympathy with the general object of this proposal, but they pointed out that the matter was one for the communities interested and that until it had been fully discussed by the leaders of those communities and until their views were before this Council, it was not advisable to legislate. Since that time Dr. Rashbehary Ghose's amendment has been circulated as part of the Report and it cannot be denied that it has elicited a considerable amount of support; on the other hand, it equally cannot be denied that the amendment would introduce a considerable change in the law of trusts and in the practice at present prevailing in regard to those trusts, and that it has not yet received adequate publicity. The Government of India have carefully considered the proposal and they agree with the Simla Committee that it is one of which the communities interested must have the fullest opportunity for discussion and on which their views must be obtained before it is sanctioned: they agree therefore with the Committee in thinking that the amendment should not find a place in the Bill. But in view of the public interest which has been taken in the matter they suggest that the amendment should be introduced as a separate Bill. If that meets with the views of our Hon'ble Colleague, Dr. Rashbehary Ghose, and he will introduce the Bill, the Government are willing to accept a motion for leave to introduce it and to have it published and circulated for opinions. It must of course be understood that the Government give this assent, as lawyers say, 'without prejudice,' in other words, that they do not commit themselves to approval or disapproval of the proposal; they reserve their opinion until they have before them the views of the communities concerned.

" My Lord, I move that the Report be taken into consideration."

The Hon'ble MR. ISMAY said:—"My Lord, the Bill now before the Council has met with a favourable reception both from lawyers and from the

[13TH MARCH, 1908.]

[Mr. Ismay.]

general public. There are no doubt a few matters involving questions of principle in regard to which there must necessarily be a difference of opinion, but I think I am correct in saying that even in regard to such matters the balance of popular opinion is in favour of the action which has been decided on. Under these circumstances I only desire to say a word or two regarding the scheme of arrangement. It has been said that the scheme involves an unnecessary innovation and that there has never been any material difficulty in applying the provisions of the present Code to the diversified areas over which the Code is in operation. And a fear has been expressed that the drawback of having increasingly divergent procedures in the areas subject to the jurisdiction of different High Courts will outweigh all the advantages which are claimed for the new arrangement. My Lord, I am perfectly willing to concede that there is very little either in the present Code or in the Bill which is now before this Council which has been or which will be found unsuitable even in the backward provinces. It may no doubt be necessary to exclude a few tracts of country from the operation of certain rules of pleading with which the people are as yet unfamiliar, but broadly speaking I anticipate that every suit will be tried on the same lines irrespective of locality. I do not however in any way share the apprehension that the new arrangement will make for diversity of procedure; on the contrary, the main reason why I have always warmly advocated the division into Code and rules is that such an arrangement should, and I hope will, tend to promote uniformity. At present there is scarcely a section of the Code which has not at some time or other been the subject of conflicting rulings for the reconciling of which no remedy, short of a legislative enactment, is available. One has only to open the pages of any annotated edition of the Code in order to realize the extent of confusion which has been developed by case law during the last quarter of a century, and it is unreasonable to expect the Legislature to intervene wherever the interpretation of any particular phrase gives rise to a conflict of opinion. I have every confidence that under the new Code such a state of confusion will no longer be possible. It is only reasonable to suppose that it will be the primary duty of every Secretary of a Rule Committee to bring to notice all cases in which opinions may differ regarding the scope or meaning of a rule and that the various High Courts in concert one with another will take such action in the way of supplying omissions or remedying defects as may be necessary.

"It has been alleged that under this Bill the Code of Civil Procedure passes out of the category of enactments which will be considered by lawyers to be worthy of a scholarly commentary. If by this it is intended that it will be no



[Mr. Ismay; Dr. Rashbehary Ghose; Tikka Sahib [13TH MARCH, 1908.]  
of Nabha.]

longer possible to string together a number of conflicting decisions under each and every rule, then, my Lord, this fact alone will go far to demonstrate the success of the experiment which is now being made."

The Hon'ble DR. RASHBEHARY GHOSE said :—" My Lord, the leading provisions of the Code of Civil Procedure Bill and the changes introduced by it have been very fully explained in Council by the Hon'ble Member in charge of the measure, and I do not think that I can usefully add anything on the present occasion. I would, however, call attention to two recommendations made by the Simla Committee. The first recommendation to which reference has already been made by the Hon'ble Law Member relates to the gradual introduction of the service of processes by post. The Simla Committee has observed, and, if I may say so without impropriety, has rightly observed, that in this reform may be found a solution of one of the principal defects—I might call it the principal defect—in the administration of our legal system. The second recommendation made by the Simla Committee, to which I would also invite your attention, is the publication annually by the Government in every province of some manual corresponding to the English *Annual Practice*, containing the Act and the rules of procedure made under it or under other Acts in the province and short notes of all important decisions under the Act and rules.

" I would only add that I gladly accept the suggestion made to me by the Hon'ble Law Member, and propose at the next meeting of the Council to move for leave to introduce a Bill to carry out the object which I have in view."

The Hon'ble TIKKA SAHIB RIPUDAMAN SINGH OF NABHA said :—" My Lord, I fully agree with what the Hon'ble Mr. Richards said when introducing the Indian Limitation Bill in this Council in January last, that our Statute-book has become full of amending Acts. Out of 350 Acts there are about 120 which have been passed merely to amend the existing Acts.

" The Hon'ble Member truly remarked that the result is that our collection of Statutes has become confused and complicated, and it is becoming increasingly difficult for those who have to refer to it to find the law with accuracy. Therefore, I welcome the Civil Procedure Bill which, when passed, will simplify the law to a great extent and do away with some fourteen amending Acts, which now complicate the law. Our laws should always be simple, clear and easily understood.

" The peculiar feature of the present Bill is its new form, which is for the first time introduced in India, by which the principles of the law of procedure only

[13TH MARCH, 1908.]      [*Tikka Sahib of Nabha.*]

are codified and all details are relegated to schedules which can from time to time be added to, corrected or amended in different parts of India by Rule Committees working under the supervision of the different High Courts. The proposal seems to possess some advantages:—

- (1) that it is more elastic and rules can be amended by Rule Committees as occasion arises without causing any trouble to the highly complicated legislative machinery. But it seems open to question why we should not have the whole law-making machinery recast in such a way that there be no difficulty in quickly and easily passing through it desirable laws, rules and regulations;
- (2) that suitable rules can be framed to suit different local conditions. It is perhaps the only advantage that can be urged in the present case. But when different parts of India had very slow and bad means of communication with each other they got on well enough with uniform laws throughout all its parts, and now that means of communication have so far improved that its most distant parts can so easily and quickly communicate with each other, as was hardly the case in early sixties of the last century, can this reason be said to have gained so great a weight as to be considered of sufficient importance now for making the change?

“Against the above two advantages may be urged the undue hardship which is bound to be caused to the general public by this new feature in the Civil Procedure which is now sought to be introduced in India, for the following reasons:—

- (1) the greater incomprehensibility of the law that would ensue. It is a very good rule of law to assume every one to be acquainted with the laws of the country and its ignorance to be recognised as no excuse whilst as a matter of fact the best legal talent of the country spend their lives in disputing over its details. The rules will soon be so amended by different Rule Committees in different parts under different High Courts that it may soon become next to impossible for even an educated person to be able to know what the rules in different parts of India were;
- (2) the greater diversity in the rules of procedure that will follow. At present when there is one law in one form in civil matters for all people, in all parts of British India, the different High Courts

[Tikka Sahib of Nabha.] [13TH MARCH, 1938.]

have so construed some of its provisions as to give it authoritatively different meanings. But when the law really becomes to a great extent different in different parts, there is no limit to what extent the learned gentlemen might carry its meanings.

"Diversity of rules will become the source of real hardship when one individual living in one province is sued in another. It would certainly be hard on the parties, but it would provide an ample harvest for the pleaders. This perhaps explains why the measure, important as it is, has excited very little comment. Who would do this? The vakils, perhaps. But why should they, when it is for their advantage to have diversity and incomprehensibility in laws to ensure business? The Press perhaps. But they cannot spare time or attention because these are fully taken up by topics of a more exciting nature.

"As to the portion of the procedure which has been retained in the Code, there are a few provisions which call for remark.

(1) Amongst the definitions given in section 2, clause (13), that of 'moveable property' can hardly be called as such. The phrase has nowhere been defined in the Code, and it is doubtful which definition is sought here to be added to by saying that it shall include 'growing crops.'

"(2) Section 25, clause (2), enacts a very curious provision under which in certain cases Courts will have to enforce laws not prevailing within their own jurisdiction, but in force in other parts of the country. In theory it is simple enough and perfectly the correct thing to do, but in practice a most difficult thing, for the presiding Judges in such case would have no experience and practical knowledge of such laws as they would be called upon to administer.

"(3) Section 34, clause (1), gives unlimited power of passing decrees bearing interest. Considering the poverty of India and the agricultural classes being in the hands of moneylenders who charge large rates of interest, there should be some limit beyond which interest should not be awarded. The proposed law gives too wide a discretion to Courts and the Courts as usual are sure to exercise it freely. The moneylending classes actually oppress the cultivating classes, as they generally have the sympathy of the presiding officers of Civil Courts, as these officers mostly belong to the moneylending class.

"(4) Section 55 gives too much power to the officers authorised to make arrests in the way of entries in private houses. The section lays down no

[13TH MARCH, 1908.] [Tikka Sahib of Nabha.]

safeguard against abuse of such power. The process-servers of Civil Courts to whom such duties will of necessity have to be entrusted are worse paid than the lowest grades of the police against whom we hear so much all over India. Perhaps the best thing would be to authorise the Courts to impose heavy fines in every case in which abuse of such powers is proved on the officers in question and the parties in whose interest such abuse takes place.

"(5) Section 60, clause (1), exempts from attachment such personal ornaments of women as in accordance with religious usage cannot be parted with. Amongst some classes the religion says nothing, but usage, customary rather than religious, requires that certain articles must not be parted with by women. Amongst Hindus it might be religious usage not to part with their nose rings in some provinces, their bangles in others, their ear-rings in some districts, but amongst some classes, though religion says nothing, yet custom is as rigid as in the case of Hindus. As the section now stands, all women except Hindus would be liable to suffer injustice, and there is no reason why they all should not receive equal protection.

"Besides, women require further protection of their personal property against attachment in execution of decrees against their husbands or other male relatives. A married woman can hold her separate property. Even amongst Hindus she can have her 'stridhan.' Is it right to disregard all such claims and draw no distinction between a woman's separate and personal property and that of her husband or common family property? Therefore it is necessary that no property held by any female member of the family separately from the husband as her exclusive property shall be liable to attachment in execution of decrees against the latter.

"(6) Section 61 provides partial exemption of agricultural produce from attachment. The duty of fixing the amount of the share of such produce is left in the hands of the Local Governments. It would have been better to fix a minimum, because the principal details should be settled by the Supreme Legislature rather than be left to the local authorities.

"(7) Section 94, clause (a), gives extraordinary power to Civil Courts to interfere with the freedom of defendants, and it is feared such powers would be used sometimes without proper discretion. It would not be safe to give these powers indiscriminately to all Courts. If such powers are thought necessary, they should only be vested in the hands of superior Courts, to be carefully exercised in special cases only.

[*Tikka Sahib of Nabha ; Munshi Madho Lal.*] [13TH MARCH, 1908.]

"As to the provisions laid down in the schedule, it is hardly worth while to consider them in detail or to offer criticism on them, for they will soon be taken up and altered by different Rule Committees to conform to their own views, and any criticism now would simply be wasted labour."

"Before concluding I must confess my great disappointment at the Hon'ble Dr. Ghose's suggestion relating to charitable trusts not being accepted. I was under the impression that the Select Committee would accept and recommend the clause suggested to the Council, but their Report is quite silent on this point, which is still more surprising and shows that they have not even touched the subject. The Hon'ble Mr. Ananda Charlu introduced a Bill in this Council in March, 1897, to remedy this evil, but after four years it was eventually withdrawn in 1901, because the Government opposed it and wished that it should not be proceeded with any further. My Lord, I made a few remarks on this subject in my budget speech last year, and I need not repeat the same on the present occasion, although I feel bound to say that Government ought to move, and move before long, in this direction, because it is under a moral obligation to see to the proper administration of vast trust funds, which ought to be devoted to such religious and charitable purposes for which they were endowed. The present suggestion of Dr. Ghose was a very modest attempt in this direction, and I wish that Government could have seen its way to accepting it."

The Hon'ble MUNSHI MADHO LAL said:—"My Lord, although my Hon'ble Colleagues who have preceded me have said all that could have been said on the motion before the Council, with Your Excellency's permission, I should like to make a few remarks."

"The principal feature of this Bill, as the Council is aware, is the re-arrangement of the clauses and the relegation of minor provisions to schedules which can be amended or added to by High Courts subject to the advice of Rule Committees. It has been represented that the novelty will cause much inconvenience in practice. It is said that the same subject is split over in the body of the Code and the schedules; that great difficulty will be felt by the Bench and the Bar alike in referring to the old sections; that the delegation of the legislative authority to the High Courts in the matter of broader details, hitherto dealt with by the Legislature is undesirable; that High Court Judges have little time to spare from their judicial work; that the rules of the Court of the various provinces are far from perfect; that the subordinate judiciary do not view with favour what has been called, by a correspondent, the proposed amputation of the Code; that the Code has

[13TH MARCH, 1908.]

[*Munshi Madho Lal.*]

hitherto done well, and all that was required was to revise it in the light of case law. My honoured and learned colleague, the Law Member, anticipated all these objections at a very early stage, and tried to meet them fully and efficiently in his speech with which he introduced the Bill at Simla in September last. He has shown conclusively the necessity of the above-mentioned changes, and the plan adopted, after full and careful consideration, will, it is hoped, prove simple, safe and sound. Similar objections were taken by a section of the Press too. But a perusal of the opinions received by the Legislative Department makes it clear that the objections form a 'microscopic minority'; that there is a consensus of opinion in favour of the new arrangement. Personally I consider that, with the safeguards provided by the law, the Rule Committees and the High Courts will be quite capable of amending or altering the rules contained in the schedules. I admit that the High Court Judges have not much time to spare from their judicial duties; but I do not think that they will be required to devote much of their time to their rule-making duties, as the rules contained in the schedules have been made with great care and consideration, and I do not think that their alteration will be required often. Moreover, the responsibility that will rest with Rule Committees and the High Courts will make them more vigilant and keen in discharging their duty in this respect, and they will be in a better position to *interpret* the rules. In this way there will be an elasticity in the rules of pure procedure which it is hoped will be beneficial to the public and the legal practitioners. The main principles of the law have been embodied in the Code which the Legislature alone have the power to change. I should have been glad were it possible to have all the rules made from time to time by different High Courts submitted to the Government of India in the Legislative Department, which could serve as a central revising authority. I think the Bill now before the Council has many advantages over the old Code. The provision that every suit shall be instituted by presentation of a plaint or in such other manner as may be prescribed by the rules, the provision for effecting execution by precepts, the partial exemption of agricultural produce, the important additions to the existing law relating to the public charities, as embodied in clause 92, the provision for execution of decrees by appointment of receivers, are some of the improvements which will, I am sure, be appreciated by experience. I wish greater facilities had been given to the public for a more prompt, easy and effective control of all public, religious and charitable trusts, on the lines suggested by my learned friend, the Hon'ble Dr. Rashbehary Ghose. I have little doubt that Hindus and Muhammadans would welcome any measure that would confer on the public more power to control and protect all public, charitable and religious endowments. In the mass of opinions on the Bill received in the Legislative Department there is an overwhelming majority

in favour of adopting the Hon'ble Doctor's suggestions. If I am rightly informed, the Sri Bharat Dharm Mahamandal and the Zamindars' Association of Muzaffarnagar have addressed the Government of India asking for more facilities to be given by the law for control and protection of public charities and endowments. Other, public bodies have also supported this view. The Provincial Social Conference that met at Lucknow the other day adopted a resolution approving of Dr. Ghose's draft (clause 93A). I, for one, cannot see what possible objection there can be to fulfil the desire of the public thus expressed. I suppose they do not ask anything more than the Government seems prepared to give; they only want that, instead of instituting a suit, power should be given to the public, under the same conditions and restrictions as embodied in the present Bill, to move the Court by an application. If necessary, some more safeguards may be provided so that persons in charge of charitable and religious endowments may not be harassed. However, I shall not enlarge on this subject as I still entertain hopes that something will be done by the Government and the Hon'ble Council in this respect, the more so, after the announcement that has just been made by the Hon'ble the Law Member regarding the introduction of a separate Bill on the subject by the Hon'ble Dr. Ghose. I trust that the Courts will in future take full advantage of the power given to them of appointing receivers in execution proceedings. This power has till now been very sparingly used, with the result that judgment-debtors and decree-holders and immoveable property itself have not unoften been ruined. If a return were called for showing the time taken in executing decrees and realising the decretal amounts by decree-holders, and the costs of the execution proceedings, it would, I fear, unfold a sickening tale of small landed properties sold out and large zamindaris ruined. It is, I take it, the object of the Government to help, as far as possible, the landed proprietors, in preserving their holdings and maintaining, in their integrity, large zamindari estates. This object, I am confident, can be achieved by the Civil Courts if they exercise the powers now vested in them for appointment of receivers, whenever immoveable property of any value forms the subject-matter of the litigation, at the earliest possible stage of the legal proceedings, or certainly on the passing of the decree in the suit. There is no dearth now in the Mufassal of properly qualified legal practitioners to be appointed receivers. The Courts may also within certain limitations and with the consent of the Collectors appoint them receivers, in the same way as they are appointed managers of Courts of Wards. The power now conferred on the Civil Courts, if properly exercised, will, in my humble opinion, be a real boon to decree-holders and judgment-debtors alike, and save many a landed proprietor from ruin. That between the passing of a decree and its final execution a long time passes, to the great detriment of

[13TH MARCH, 1908.] [*Munshi Madho Lal*; *Mr. Chitnavis.*]

the landed property under litigation and the certain loss of the decree-holder and the judgment-debtor, is a fact which I need hardly enlarge upon. I shall content myself with one illustration which is typical of its class. A mortgage-decree was obtained in the Court of the Subordinate Judge of Patna in 1900, and the decretal amount has not yet been realised, although the property is said to yield an income of a lakh and a half of rupees per annum. Execution proceedings are still pending; and the estate has just been taken over by the Court of Wards.

"My Lord, I cannot conclude without discharging the pleasant duty of expressing the feeling of gratitude and thankfulness, on behalf of the public, to your Excellency's Government for the manner in which it has managed this most important, useful and complicated piece of legislation. It brought together the best men of intellect and legal acumen, available in the whole of India, to form the Special Committee which sat at Simla and to which our hearty thanks are due, which did real and substantial work, in making the frame-work of the Bill now before the Council, as on its basis the Select Committee did their duty and found their work made comparatively easy. I quite agree with the remark of our learned Law Member to the effect 'I do not know that there are four other lawyers in India who could command more completely the confidence of the public in a matter such as this, and the fact that they have approved of this Bill and approved of it unanimously, is, I venture to think, an argument of an almost conclusive character in its favour.' I may be allowed to add that it would have been hard to find a better law maker than our Law Member, the Hon'ble Mr. Erle Richards, who controlled and directed the Special Committee and presided over the Select Committee with such ability and tact, brought to bear on all matters an intrinsic merit of high order, whose patience and sympathy cannot be too much admired. He heard and considered with attention and courtesy all the suggestions that were made, whether by the officials or by the public, and those that were put forward by the members of the Select Committee. Our most hearty thanks are due to him. I am almost confident that the present Bill, if passed, will prove most useful to the public, the judiciary and the legal profession, and that the difficulty, if any, in working the Code will very soon be a thing of the past."

The motion was put and agreed to.

The Hon'ble MR. CHITNAVIS moved that in clause 2.(18) of the Bill as amended by the Select Committee, for the definition of "rules" the following be substituted, namely :—

" 'rules' means rules and forms contained in the First Schedule or made under section 122 or section 125."



[*Mr. Chitnavis ; Mr. Erle Richards.*] [13TH MARCH, 1908.]

He said :—" My Lord, it is of great importance that the rule-making power under this Bill should be absolutely clear, and the object of this amendment is to remove a doubt which arises in regard to the definition of rules. It might be argued that rules as at present defined included rules made under clauses 129 and 130, that is, rules not relating to 'procedure. I suggest for the consideration of Council that this definition should be made clear by the addition of the words proposed."

The Hon'ble MR. ERLE RICHARDS said:—" I am much obliged to my Hon'ble Colleague for calling attention to this point, which is a small one but not an unimportant one, and I think that the form he suggests is an improvement on that contained in the Bill. I beg to recommend to the Council that it be accepted."

The motion was put and agreed to.

The Hon'ble MR. ERLE RICHARDS said:—" I desire to move an amendment in clause 123, sub-clause (2), (d), of the Bill as amended by the Select Committee, that for the words ' a Subordinate Judge ' the words ' a Judge of a Civil Court Subordinate to the High Court ' be substituted. Clause 123 deals with the constitution of the Rule Committee, and the particular sub-clause to which I refer was inserted by the Select Committee in order to provide for the presence on the Rule Committee of a Subordinate Judge. It was not, however, present to the minds of the Select Committee that in Burma, at least, there are no Judges who can properly be called Subordinate Judges. It is possible that the term might be construed sufficiently widely for the purposes of Burma, but it seems better to have the point clear on the face of the Bill and to use some expression which will be beyond doubt applicable to every province. The words proposed will allow of the presence of a District Judge or of a Subordinate Judge on the Rule Committees and will, I think, cover the requirements of every Province."

The motion was put and agreed to.

The Hon'ble MR. CHITNAVIS moved that in clause 125, *proviso*, of the Bill as amended by the Select Committee, the words " under the provisions of this Part " be omitted. He said :—" This amendment, my Lord, is connected with the amendment which I have already moved in this Council. It is intended to clear up all possible doubt as to the meaning of rules in clause 125."

The Hon'ble MR. ERLE RICHARDS said:—" I have considered this matter and I think that the words to which my Hon'ble Colleague takes exception are

[13TH MARCH, 1908.] [*Mr. Erle Richards*; *Mr. Chitnavis*.]

unnecessary and might conceivably lead to some doubt as to the meaning of the proviso. I therefore ask the Council to accept the amendment."

The motion was put and agreed to.

The Hon'ble MR. ERLE RICHARDS moved that in the First Schedule of the Bill as amended by the Select Committee, Order III, "Recognised Agents and Pleaders," rule 4, sub-rule (3), after the figures "1861" the words "or of any Chief Court" be inserted. He said:—"Sub-rule (3) deals with the class of pleaders who are entitled to act without presenting a document authorising them to do so, and as settled by the Select Committee it applies only to Advocates of the High Courts under the Indian High Courts Act, 1861, and to Advocates who are Barristers. It has been brought to our notice, however, that there are some gentlemen—I think four in all—who have the right to act in this way at present as Advocates in the Chief Court of the Punjab, but who are not Barristers; and although this is a provision which can be altered by the Rule Committee, still it would be hard on these gentlemen that their vested rights should be taken away by an alteration of the form of the clause. I therefore propose to the Council that the clause should be restored to the form in which section 39 of the present Code of Civil Procedure Bill stands, and that after the figure '1861' in sub-rule (3) the words 'or of any Chief Court' should be added. That will cover the case of these gentlemen."

The motion was put and agreed to.

The Hon'ble MR. CHITNAVIS moved that in the First Schedule of the Bill as amended by the Select Committee, Order XXXIV, "Suits relating to Mortgages of Immoveable Property," after rule 13 the following rule be inserted, namely:—

"14. Where a mortgagee has obtained a decree for the payment of money in satisfaction of a claim arising under the mortgage, he shall not be entitled to bring the mortgaged property to sale otherwise than by instituting a suit for sale in enforcement of the mortgage and he may institute such suit notwithstanding anything contained in Order II, rule 2;"

and that the present rule 14 be re-numbered as 15. He said:—

"My Lord, the amendment I now move has relation to section 99 of the Transfer of Property Act, 1882, which it is proposed to repeal by this Bill.

[*Mr. Chitnavis ; Mr. Erle Richards.*] [13TH MARCH, 1908.]

The effect of repealing this section would be to allow a mortgagee who has obtained a decree for money against a mortgagor to sell the mortgaged property in proceedings in execution of that decree. But there is one case in which this would work hardship, and that is if the mortgagee were to effect such sale in execution of a decree for money due under the mortgage. In that case he would be getting a right of sale against the mortgagor free from the protection which the law gives a mortgagor in suits for sale. I suggest to this Council that this should not be so and that an amendment should be inserted such as that I now move in order to protect the mortgagor in proceedings by way of execution of a decree for property due under the mortgage."

The Hon'ble MR. ERLE RICHARDS said:—"My Lord, I have had the advantage of discussing this point with some of my Hon'ble Colleagues on the Select Committee, and we are agreed that the amendment proposed by the Hon'ble Member is desirable subject to one condition, and that is, that some words be inserted to prevent its applying to territories to which the Transfer of Property Act does not at present apply. The amendment of my Hon'ble Colleague is taken from section 99 of the Transfer of Property Act, and if his amendment were carried in its present form, it would apply to territories to which that Act does not at present apply. I understand that the Hon'ble Member is willing to accept this addition to his amendment. The addition would be to number the new clause he proposes clause 14, sub-rule (1), and then to add at the end the following new sub-rule:—

"(2) Nothing in sub-rule (1) shall apply to any territories to which the Transfer of Property Act, 1882, has not been extended."

"I understand that my Hon'ble Colleague will accept this addition to his amendment and I recommend the Council to accept his amendment as altered in this way."

The Hon'ble MR. CHITNAVIS said:—"I beg to accept the amendment of the Hon'ble Law Member."

The motion was put and agreed to.

The Hon'ble MR. ERLE RICHARDS moved that in the First Schedule of the Bill as amended by the Select Committee, Appendix A, "(4) Written Statements," the Form No. 8, entitled "Defence in Suits for infringement of a Patent," be omitted, and that the subsequent Forms, Nos. 9 to 17, be re-numbered as Nos. 8 to 16, respectively. He said:—"That form is not techni-

[13TH MARCH, 1908.]

[*Mr. Erle Richards.*]

cally accurate as the law stands at present. It has been drawn in anticipation of the law as proposed to be amended and it is in advance of the law as it at present stands."

The motion was put and agreed to.

The Hon'ble MR. ERLE RICHARDS moved that the Bill, as now amended, be passed. He said :—"My Lord, I suspect that the Members of this Council must be experiencing no little sense of relief in hearing that this measure has now reached its final stage. For the past seven years it has stood on the List of Business of this Council, it has been considered by four Committees, it has been published and circulated three times, it has been the subject of copious criticism by the public and by the profession. But in defence of this I would point out that the Legislature has not been often troubled with a general amendment of Civil Procedure. The first Code was passed in 1859; it was amended and re-enacted in 1877; and though it came again before the Legislature five years later, the Act of 1882 was in substance no more than the Act of 1877. It is therefore more than thirty years since the last Code was discussed in this Council, and much has happened in those years to warrant a fresh enactment. A mass of decisions has grown up round the present Code which should be removed, and many points of conflict have arisen between the various High Courts which should be set at rest. Moreover, the English practice on which the Act of 1877 was based has itself been remodelled since that year as the result of experience and we should take advantage of that experience. It is full time therefore that a new Act should be passed, and if excuse were wanted for the deliberation with which we have proceeded in enacting it, I would remind the Council that these two Codes of Procedure of ours, the Civil and the Criminal, are big things. They stand alone in the records of comparative legislation both in regard to the extent of the population which they affect and to the number of Courts to which they apply. They govern the litigation of the people of British India, some 300 millions in all, and they regulate the procedure of over 2,000 Courts. It is wise therefore to proceed cautiously in effecting a change in them.

"If this motion be carried, my Lord, we shall no longer have a law of procedure which in every detail must be the same for all India. The enactment of one uniform Code applicable to all the territories within the jurisdiction of the Legislature which enacts it is a tempting ideal, and we shall abandon it with some regret; but it is an ideal which must yield to practical considerations. It is expedient that there should be uniformity in main prin-

[*Mr. Erle Richards.*] [13TH MARCH, 1908.]

ciples, but in the less important matters of procedure there should be some elasticity in order to enable the Code to meet the varying wants of different localities and different communities. The Bill gives effect to this view, and if the rule-making power given by it be used with moderation, it will, as I venture to hope, be a means of effecting a considerable improvement in the machinery of our procedure. The power is given to the High Courts and I have every confidence that they will use it to the best advantage. It is in that belief that I commend this motion to the Council.

"I cannot, my Lord, conclude these observations without once more expressing the thanks of the Government of India, and I think I may fairly add of the public of India, to those who have assisted me in this complicated matter. I have been at best but the coxswain of the boat; it has been rowed into harbour by others. The burden has fallen mainly on those gentlemen who were associated with me in the Committee which sat at Simla, but we owe our thanks also to the Judges and lawyers of India who have generously placed their experience and their learning at our disposal and to the Select Committee of this Council. Nor can we forget our obligations to my predecessor, Sir Thomas Raleigh, and the Committees who worked with him. They cleared the course for us and made our progress possible.

"My Lord, I move that the Bill be passed."

The motion was put and agreed to.

The Council adjourned to Friday, the 20th March, 1908.

J. M. MACPHERSON,  
*Secretary to the Government of India,  
Legislative Department.*

CALCUTTA;

*The 13th March, 1908.*

*Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Indian Councils Acts, 1861 and 1892 (24 & 25 Vict., c. 67, and 55 & 56 Vict. c. 14).*

The Council met at Government House, Calcutta, on Friday, the 20th March, 1908.

PRESENT :

His Excellency the Earl of Minto, P.C., G.C.M.G., G.M.S.I., G.M.I.E., Viceroy and Governor General of India, *presiding*.

His Honour Sir Andrew Fraser, K.C.S.I., Lieutenant-Governor of Bengal.

His Excellency General Viscount Kitchener of Khartoum, G.C.B., O.M., G.C.M.G., G.C.I.E., Commander-in-Chief in India.

The Hon'ble Mr. H. Erle Richards, K.C.

The Hon'ble Mr. E. N. Baker, C.S.I.

The Hon'ble Major-General C. H. Scott, C.B., R.A.

The Hon'ble Sir Harvey Adamson, Kt., C.S.I.

The Hon'ble Mr. J. O. Miller, C.S.I.

The Hon'ble Mr. W. L. Harvey, C.I.E.

The Hon'ble Sir Rameshwara Singh, K.C.I.E., Maharaja Bahadur of Darbhanga.

The Hon'ble Munshi Madho Lal.

The Hon'ble Mr. Gangadhar Rao Madhav Chitnavis, C.I.E.

The Hon'ble Mr. H. W. W. Reynolds.

The Hon'ble Mr. F. A. Slacke, C.S.I.

The Hon'ble Mr. H. A. Sim, C.I.E.

The Hon'ble Tikka Sahib Ripudaman Singh of Nabha.

The Hon'ble Dr. Rashbehary Ghose, C.I.E., D.L.

The Hon'ble Mr. Gopal Krishna Gokhale, C.I.E.

The Hon'ble Mr. A. A. Apcar, C.S.I.

The Hon'ble Mr. S. Ismay, C.S.I.

The Hon'ble Maung Bah Too, K.S.M.

The Hon'ble Mr. W. W. Drew.

The Hon'ble Nawab Saiyid Muhammad Sahib Bahadur.

The Hon'ble Mr. W. R. H. Merk, C.S.I.

QUESTIONS AND ANSWERS.

The Hon'ble MUNSHI MADHO LAL asked :—

"Is the Government aware that different versions have been reported in different papers about the sedition case against Lala Zorawar Singh and other

[*Munshi Madho Lal ; Sir Harvey Adamson ; [20TH MARCH, 1908.]*  
*Mr. Baker.*]

respectable Hindus of Etawah in the United Provinces of Agra and Oudh ? Will the Government be pleased to state the full particulars of the case to clear up misunderstandings and also mention names of persons, if any, who were punished for fabricating a false case ? ”

The Hon'ble Sir HARVEY ADAMSON replied :—

“ No proceedings for sedition have been instituted or recommended for institution against the persons referred to. In July, last certain papers, purporting to show that some Hindu gentlemen at Etawah were in communication with political agitators in the Punjab, came into the hands of the local authorities. The Magistrate and District Superintendent of Police considered the papers genuine, but investigation by experts furnished grounds for suspecting them to be forgeries by one Khalil who thereupon absconded. Proceedings against him were recorded under section 512, Code of Criminal Procedure and sections 468, 469 and 471 of the Indian Penal Code by the Magistrate of the District, who completed them on March 6th. On that date Zorawar Singh and others applied that further witnesses should be summoned on the ground that the enquiry was incomplete and that the forgeries were the result of a deep-laid conspiracy of which Khalil was only an instrument. The Magistrate after hearing Zorawar Singh at length refused to allow the applicants to interfere in the course of the proceedings under section 512, but informed them that if they filed a definite complaint of definite offences against definite persons it should receive the fullest enquiry in open Court. No evidence has been obtained to implicate any one except Khalil in the alleged forgeries.”

The Hon'ble MUNSHI MADHO LAL asked :—

“ Will the Government be pleased to mention whether on the occurrence of a temporary vacancy, caused by absence on leave, in the higher grades of the Provincial Civil Service and amongst Tahsildars, acting grade promotions are given as in the case of posts held by the members of the Indian Civil Service ; and, if not, whether it is not desirable to allow the Provincial Civil Service such a concession ? ”

The Hon'ble Mr. BAKER replied :—

“ Generally speaking the facts are as stated in the first part of the question, namely, that acting promotion from grade to grade is not allowed in the Provincial and Subordinate Civil Services. The Government of India are not disposed to extend this system to any of the services in which it does not at present prevail.”

[20TH MARCH, 1908.] [Munshi Madho Lal; Sir Harvey Adamson; Mr. Baker.]

The Hon'ble MUNSHI MADHO LAL asked :—

“(a) Will the Government of India be pleased to state whether it is contemplated to reduce the present strength of the Calcutta High Court by transferring a part of the Hon'ble Court, or locating one or two Division Benches in the new Province (Eastern Bengal and Assam) ?

“(b) Is the Government aware that any arrangement by which the strength, power or jurisdiction of the Calcutta High Court is curtailed will be a most unpopular measure ?”

The Hon'ble SIR HARVEY ADAMSON replied :—

“The Government of India do not contemplate the transfer of a part of the Calcutta High Court to Eastern Bengal and Assam or the location of Division Benches in that province.”

#### FINANCIAL STATEMENT FOR 1908-1909.

The Hon'ble MR. BAKER introduced and explained the Financial Statement for 1908-1909. He said :—“ My Lord, I lay on the table the Financial Statement for 1908-1909 with the usual appendices and accounts, and will, with Your Lordship's permission, give the Council a brief summary of the financial position.

“ In each of the last three budgets which I have presented, it has been my fortune to report an improvement of greater or less magnitude in the realised revenue and surplus of the year, as compared with the original estimate. To-day, I regret to say that my task is different. The failure of the monsoon over a large part of Northern India and the existence of widespread famine will have prepared the Council for a comparative deterioration in the position. The speeches of Your Excellency and other speakers at last Tuesday's meeting at the Town Hall have given the public a full and graphic picture of the extent and severity of the misfortune that has befallen the country, and I need not go over the ground again. It is sufficient to state that famine has been declared to exist in an area of about 118,000 square miles in British India and 15,000 square miles in the Native States of Central India. The population affected is nearly 50 millions in all, and at the beginning of the present month nearly a million and a half of persons were in receipt of relief. The distress would have been far greater but for the winter rains which, though late in coming, were abundant and well distributed. We have issued over 2 crores of rupees in the form of takavi loans during the current year and have provided an equal amount for next year. We have suspended over 3½ crores of land revenue in the two years and have made ample provision for expenditure on direct relief.



[Mr. Baker.]

[20TH MARCH, 1908.]

"These results are necessarily reflected in the accounts of the year. In accordance with a decision which was foreshadowed in the Budget debate of last year, we have arranged to exclude from our estimates and accounts the transactions of a number of local funds, aggregating rather more than 3 crores of rupees on each side of the account. Allowing for this adjustment, a year ago we estimated the revenue of 1907-1908 at 108,75 lakhs, the expenditure chargeable against revenue at 107,59 lakhs, and the surplus at 116 lakhs. We now calculate that the revenue will amount to 106,48 lakhs, a falling off of 227 lakhs. The expenditure is now estimated at 106,13 lakhs, and the surplus at 35 lakhs, being a net worseness of 81 lakhs.

"The causes of this are as follows :—

	Lakhs.
(1) Land revenue receipts have fallen off in consequence mainly of the famine by . . . . .	255
(2) Our net Railway earnings have fallen short of the estimate by . . . . .	109
This is partly due to the famine, but also in large measure to the rise in working expenses and cost of renewals.	
(3) The direct charges for famine relief have amounted to 77 lakhs, being an increase over the estimate of . . . . .	68

"These three items give a total deterioration of 432 lakhs.

"On the other hand Opium and Customs have done better than we expected to the extent of 56 and 55 lakhs, respectively. There is a saving of 114 lakhs in Army charges due partly to delay in carrying out the re-distribution scheme, and partly to savings and economies in other directions. These would have been greater but for the prevailing high prices of food and fodder, which have increased the cost of feeding the army by nearly 13 lakhs. The cost of the Zakka Khel expedition is estimated at about 8½ lakhs, of which the greater part will fall into the accounts of the current year. Under other heads of revenue and expenditure there is a net improvement of 50 lakhs, and the expenditure charged against provincial balances and not against current revenue is greater by 76 lakhs. These improvements help us to the extent of 351 lakhs, and the net result is the worseness of 81 lakhs already mentioned.

"For next year, our calculations are based on the assumption that the monsoon will be normal. If that should happily prove to be the case, we have reason to hope that the progress of the country will resume its usual course, and that the set back which it has met with in the present year will rapidly be made good. In this view we take credit for a reasonable development of revenue under

[20TH MARCH, 1908.]

[Mr. Baker.]

all the principal heads, and for a full recovery under Land Revenue and Railway earnings. On the other hand we have provided 132 lakhs for famine relief. The gross revenue is estimated at 110,16 lakhs, the expenditure chargeable against revenue at 109,30 lakhs, and the surplus at 86 lakhs. The Military charges are estimated at 31,13 lakhs which is 79 lakhs less than the budget for the current year though 35 lakhs more than the probable actuals. This result has been effected mainly by restricting the grant for 'special' expenditure to 250 lakhs, and allowing no regrant of lapses. The reduction would have been greater but that we have been forced by reason of the prevailing high prices to increase the provision for feeding the army by 19½ lakhs.

"Our opium revenue is taken at 57 lakhs less than in the current year in pursuance of our policy of gradual restriction of the cultivation and export. An agreement has recently been arrived at between His Majesty's Government and the Government of China in regard to this subject, and a brief account of the terms will be found in the body of the Statement.

"In existing circumstances it is not in our power to undertake anything in the way of remitting taxation. Neither can we do very much towards increasing useful expenditure for the development of the country. We have, however, provided 12 lakhs for police reform, in addition to 20 lakhs assigned for this purpose to the United Provinces and Madras in the revision of their settlements. We have also provided a recurring grant of 30 lakhs a year for distribution among the provinces for expenditure on the improvement of the public health with special reference to the prevention of plague, and the improvement of the sanitary conditions of urban areas.

"For capital expenditure on Railways we have been able to provide 15 crores of rupees, but almost the whole of this will be required for open lines or lines already under construction, and not more than 20 lakhs are likely to be available for new projects. For Irrigation we have increased the capital grant to 150 lakhs. It is proposed to raise a rupee loan of 3 crores in India, and to issue temporary India Bills, in London to the extent of half a million sterling. The present intention of the Secretary of State is to draw Bills on India to the amount of 18½ millions sterling, but additional Bills will as usual be sold, if required, to meet the demands of trade. These announcements are all made subject to the usual reservation.

"These, my Lord, are the leading features of the Budget for the ensuing year. I am very conscious that it is less favourable than those which I have been enabled to present during the last three years. And it must be admitted that the tide of our prosperity has received a check. Nevertheless there is no cause for

[*Mr. Baker; Mr. Erle Richards.*] [20TH MARCH, 1908.]

despondency. Our ordinary revenues show every symptom of healthy elasticity. The extent of the famine which has descended on Northern and Central India is markedly less than in either 1897 or 1900—while the courage, confidence and resource with which it is being faced by the people themselves have been noted by all observers, and merit the ample recognition and unstinted co-operation of the Government. If the rains of next autumn are happily propitious, there is good reason to hope that the present temporary depression will pass away like a cloud and leave no permanent trace behind.”

## INDIAN LIMITATION BILL.

The Hon'ble MR. RICHARDS: “My Lord, I beg to present the Report of the Select Committee on the Bill to consolidate and amend the law for the Limitation of Suits, and for other purposes.

“The amendments made by the Committee are set out in the Report and I desire to call attention to two only. I do so because they were not in the Bill as introduced. The first relates to legal disability, clause 6. The Committee recommend that minors should not be entitled to claim the benefit of minority in regard to applications other than applications for execution. They think that the power to open up transactions on attaining majority, in cases such as those to which the clause refers in which the minor has been represented by a guardian, at the time, should be restricted. The second point relates to clause 14. It is proposed to add an explanation to that clause to make it clear that it applies to cases of misjoinder of parties or of causes of action as well as to cases of defect of jurisdiction; this will put an end to considerable conflict of opinion.

“In the course of the discussions on this Bill various proposals were put before the Committee for restricting periods of limitation; but the Committee have not adopted those proposals. Changes of that character appeared to them to involve questions of policy and of policy which would differ in the different parts of India. As an illustration there is the matter to which I referred in introducing this Bill—the limitation of suits for redemption by mortgagors which is now the long period of sixty years. It was pressed upon the Committee from several quarters that this period should be reduced to twelve or at least to twenty years. On the other hand, it was equally pressed upon them from other quarters that any change of that kind would be disastrous in its effect. It is clear that changes such as this cannot be lightly undertaken. If they are to be made they must be made after the fullest consideration and must be brought forward as separate proposals; they are not within the scope of this Bill.

[20TH MARCH, 1908.] [Mr. Erle Richards ; Dr. Rashbehary Ghose.]

"It has not been possible to present the Bill at an earlier period and it cannot therefore be passed until the Council meets at Simla. Meantime it is hoped that Courts before whom cases affected by the recent Privy Council decision may come will allow those cases to stand over until the Bill becomes law. The delay will give a further opportunity for consideration of the Bill, if any be needed."

#### PUBLIC CHARITIES ACCOUNTS BILL.

The Hon'ble DR. RASHBEHARY GHOSE moved for leave to introduce a Bill to give greater facilities to the public for calling for and inspecting Accounts of Public Charities. He said :—"My Lord, the Bill I am going to introduce today may be said to be a companion measure to the Code of Civil Procedure which was passed on Friday last. It embodies a proposal which was made by me as a member of the Simla Committee with which my colleagues expressed their sympathy ; though they did not see their way to accept it, until it had been fully discussed by the leaders of the communities likely to be affected by my proposal. It was, however, circulated as part of the report and I am glad to say obtained a very considerable measure of support. I did not, however, move any amendment at the last meeting of the Council, when the Code of Civil Procedure Bill was taken into consideration ; because it was thought desirable that a further opportunity should be given to the communities interested in the question of discussing the proposal ; and this is my reason for embodying it in a separate Bill.

"My Hon'ble Colleague the Tikka Sahib spoke of my proposal the other day as a very modest proposal. And so it is ; for I do not suggest any drastic reforms ; as I wish anxiously to avoid anything wearing even the slightest semblance of interference with our religious institutions. I am not, therefore, going to invite the Council to take away any single right or privilege, however much liable to abuse, now possessed by the heads of our religious and charitable institutions or to interfere in the slightest degree with their management. All that I ask is that the public, who are the real beneficiaries, should be able to obtain under proper safeguards an inspection of the trust accounts. In making this modest demand, I am not imposing any new obligation on the trustees ; for they are already bound under the law to keep proper accounts of the trust property. 'The first and primary duty of a trustee,' said a distinguished English Judge, 'having money in his hands to be received and to be paid is that an account of his receipts and payments should be kept to be produced to those interested in the account when it is properly demanded.' In the case in which these remarks were made the trustees urged that they were illiterate men and could not keep accounts ; but His Lordship answered

[*Dr. Rashbehary Ghose.*]

[20TH MARCH, 1908.]

that it is the first duty of a trustee, if he cannot keep accounts, to provide some one who can. And this obligation has been recognised by the Indian Legislature in Act XX of 1863, section 13 of which enacts that it shall be the duty of every trustee, manager and superintendent of a mosque, temple or religious establishment to which the provisions of the Act shall apply, to keep regular accounts of his receipts and disbursements, in respect of endowments and expenses of such mosque, temple or other religious establishment. These accounts, however, are not open to the inspection of the public; though when a suit is instituted, the Court may direct the accounts of the trust to be taken in the ordinary way. The Bill thus merely provides a cheap and expeditious method of obtaining that which can be obtained even now, but only by the cumbrous, dilatory and expensive process of what is known in this country as a regular suit. Then again, it is not always easy to ascertain whether a breach of trust has been committed by the trustee which would render him liable to removal, unless the accounts of the trust property are available to the relators; and the inability to obtain inspection, I know from my professional experience, is a serious embarrassment in the way of persons desirous of instituting a suit against a dishonest trustee. To the possible objection that this right may be used for some indirect or other improper purpose, I would answer that any abuse of the kind is sufficiently guarded against by requiring as a condition precedent to the making of any such application, the consent of the Advocate General or of some officer specially empowered in that behalf by the Local Government. There is nothing, therefore, in this Bill to create suspicion or to excite alarm except possibly in the minds of those who 'creep and intrude' and climb into the fold—faithless to their vows and to the rules of their order.

"My Lord, I am aware it is never safe to prophesy till you know." But in the present instance I may venture to affirm without much rashness that this very modest Bill will not give rise to any heated controversy. On this point I have no misgivings whatever. I am absolutely certain that it will be welcomed by every honest trustee and will not be opposed even by questionable occupants of the guddee. For they must know that secrecy always engenders suspicion and distrust except—and it is not an unimportant exception—in the case of any official despatch or resolution. They must know also that they cannot oppose this Bill without rendering themselves open to the suspicion that they are unfaithful stewards—a dishonour to their order and a reproach to the community to which they belong.

"My only fear is that this measure might not satisfy the more ardent reformers who insist upon a thoroughly effective supervision over religious

[20TH MARCH, 1908.] [Dr. Rashbehary Ghose; Tikka Sahib of Nabha.]

houses, as I gather from some of the representations which have been made to the Legislative Department and also to me personally by public bodies as well as by leading men from various parts of the country, in which they point out that the emancipation of Hindu and Muhammadan religious endowments from all effective control which was carried out by Act XX of 1863 during Lord Lawrence's administration, under influences which I need not discuss, was a measure of very doubtful wisdom. I repeat, my modest Bill would hardly satisfy these reformers. Of one thing, however, I am certain. I am confident that the heads of religious houses can have no ground whatever of complaint. They can have no ground whatever of complaint against a measure which does not impose any new duty upon them or interfere in any way with their rights and privileges. They can have no ground of complaint whatever against a measure which by allowing their accounts to be inspected by the public, subject to clearly defined restrictions, is likely to win back the confidence of the people which some of them, I fear, have forfeited by their misconduct. And this reminds me that many of these heads fully approve of the proposal contained in this Bill. For they are men who scrupulously observe their vows—men who have nothing to fear from a law which, without impairing their legitimate authority, is only intended to check breaches of trust by those who ought to illustrate in their lives and conversation the great law of sacrifice; and the example of these holy men will, I hope, serve as a guide to their weaker brethren."

The Hon'ble TIKKA SAHIB RIPUDAMAN SINGH OF NABHA said:—  
 "Last week, I expressed my disappointment at the Hon'ble Dr. Ghose's suggestion relating to charitable trusts not being accepted in connection with the Code of Civil Procedure, but I am delighted to find that the Government has been pleased to give leave to the learned Doctor to introduce a separate Bill to carry out the object which is in view. Although the concluding remarks of the Hon'ble Law Member's speech at the last meeting of the Council are not very encouraging, yet we have to heartily thank the Government for this practical sympathy which they have shown in the cause of reform. In the papers about the Code of Civil Procedure received in the Legislative Department, an overwhelming majority of the opinion of both Hindus and Muhammadans is to be found, supporting the Hon'ble Doctor's suggestion. Then again in view of the fact that persons like the Hon'ble Munshi Madho Lal—the guardian and the keeper of the Vedās—give their hearty support to the proposed reform, and on whose high authority we learnt the other day that even an 'orthodox' body of the Hindus like Sri Bharat Dharm Mahamandal have addressed the Government on the subject, asking for more facilities to

[*Tikka Sahib of Nabha ; Munshi Madho Lal.*] [20TH MARCH, 1908.]

be given by law for proper control and management of public charities and endowments, I have great hopes for the future, and I feel almost sure that something will be done in this respect. I wish the Hon'ble Dr. Ghose every success in this noble cause, and I sincerely trust that his Bill will not meet the same fate which the Hon'ble Mr. Ananda Charlu's Bill met a few years ago. My Lord, the Bill which will be introduced by the Hon'ble Dr. Rashbehary Ghose has my hearty support."

The Hon'ble MUNSHI MADHO LAL said:—"My Lord, I have very great pleasure in supporting the motion of my Hon'ble friend, Dr. Rashbehary Ghose, as I am in full sympathy with his object. I submit that the acceptance of his very modest proposal will not militate against the avowed policy of religious neutrality which has been so wisely followed in this country. If it did, I would, as a loyal subject, deem it my duty to inform Your Excellency's Government, against the introduction of such a measure. As a matter of fact the principle underlying the proposed legislation has already been admitted in the existing law. It empowers the Courts to call for accounts on the institution of a suit. The proposal now before the Council will give the public, interested in a public trust, the power to move the Courts, in a less expensive and more expeditious manner, to interfere with the same if wrongly managed, by calling for accounts in a summary manner. And I submit that it is but fair and reasonable that persons who control public trusts—whether religious or charitable—should be liable to render accounts of their trust to the public. I cannot understand that if the Government of India and other Local Governments and bodies are asked to exhibit their accounts before the public why the trustees of endowments and of religious charities and institutions should be exempted from this simple duty."

"My Lord, there is a general feeling in favour of the proposed law both amongst the Hindu and the Muhammadan communities. A distinguished member of the Musalman community on this side, in a letter published in the *Statesman* newspaper of the 28th February, 1908, writes that 'the proposal of Dr. Ghose has the full sympathy and support of the intelligent portion of the Muhammadan community \* \* \* , that it will not affect the religious susceptibilities of the Muhammadans, \* \* \* that the Muhammadan community will welcome any provision in the law which would place at the disposal of Judges and the public a workable and efficient machinery for checking and dealing with cases of inefficient administration and malversations similar to what the Muhammadan law provides in matters of public charities.' Then again in the *Englishman* newspaper of the 3rd March, 1908 appears a telegraphic report of a public meeting, held under the auspices of the Hindu Sabha of Lahore,

[20TH MARCH, 1908.] [*Munshi Madho Lal ; Sir Harvey Adamson.*]

held there on the 2nd instant with the object of requesting this Council to accept Dr. Ghose's suggestion. It appears that one of the speakers at that meeting suggested that if an application proved frivolous and vexatious, the applicants should be made to pay the costs incurred in preparing the accounts demanded. This is a matter of detail which the Courts could fairly be left to exercise their discretion about. The Zamindars Association of Muzaffarnagar, and a public meeting of the residents of Cawnpore, as well as the United Provinces Social Conference recently held at Lucknow, have supported the proposed enactment. The Zamindars Association of Muzaffarnagar go further and wish to empower the Courts to direct a trustee to file in Court copies of the documents and papers connected with the endowed properties—an addition which I have no doubt will be considered in due course should the Bill be allowed to be introduced and referred to a Select Committee."

The Hon'ble SIR HARVEY ADAMSON said:—"My Lord, I have a few words to add to what was said by the Hon'ble Mr. Erle Richards on this subject last week in the debate on the Code of Civil Procedure Bill. It cannot be doubted that serious abuses exist in the management of many religious endowments in India. The policy of the Government of India remains as it was, a policy of non-interference with religious endowments. The present Bill is free from objection inasmuch as it prescribes no direct interference by Government, but merely gives to the people themselves further facilities for protecting religious endowments from abuse. Any move in this direction has the sympathy of the Government of India.

"The law as it at present stands is that in the case of an alleged breach of a trust created for religious purposes, any two persons, having an interest in the trust, may, after having obtained the consent of the Advocate General, institute a suit. When the suit has been instituted the Court has the power to require the trustee to exhibit accounts. It appears that such of the public as take an interest in the management of religious trusts have made little use of these powers, and it is said that the reason is that without seeing the accounts of a trust no one is in a position to institute a suit alleging maladministration. The Bill therefore proposes to give greater facilities in this direction by allowing any two persons who are interested in a trust and who have obtained the consent of the Advocate General, or outside the Presidency-towns of the Collector, to make an application for the exhibition of accounts.

"Before giving their final support to the Bill the Government of India desire to ascertain how these facilities are likely to be exercised. On the one



hand it may be alleged that it is only right that every trustee of a public trust should be obliged to exhibit to the public the accounts of his trust. As an abstract principle it is impossible to deny so reasonable a proposition. On the other hand it may be alleged that as applied to religious trusts in India this proposition involves an innovation and a subversion of existing custom which may have far-reaching and unexpected consequences. Would the facility, a very cheap and inexpensive facility, be likely to lead to oppression, and would it be used for corrupt purposes? Is the guarantee that the consent of the Advocate General, or even of the Collector, must be obtained before making an application a sufficient guarantee that the application is made on proper grounds? Is the Advocate General in the Presidency-towns or the Collector outside in a position to determine such a question, or would he not find it difficult in most cases to refuse so apparently reasonable a request as that the accounts of a public trust should be open to the inspection of the public? Then again it is necessary to consider by what machinery and in what methods these trusts have customarily been managed by honest trustees. In India there is generally immemorial usage in such matters. How does the machinery lend itself to the exhibition of accounts? What will be the effect, say, on an honest manager of a temple if any two ill-wishers, prompted by improper motives, can readily obtain consent and compel him to produce accounts of his shrine for the preceding three years, as the Bill proposes to permit? How will trustees and the general public who worship at the shrine and contribute to its endowment regard such an innovation? Can so radical an alteration of custom, applied by the force of law, be introduced without provoking a resentment which may be politically dangerous?

"Such are the points that must be elucidated before the Government of India can, with an assurance of its expediency, support the Bill. I am aware that a considerable mass of educated opinion in India supports it, but it is a subject which peculiarly touches the common people, and it is desirable to search deeper down and to ascertain the ideas of the priesthood and the people, to ascertain in short how the measure would commend itself to the great bodies of worshippers in India.

"For this reason the Government of India feel that they must hold their hand in a matter which, regarded in the abstract, has their warmest sympathy. The course which we propose to adopt is to vote, without prejudice, for the introduction of the Bill and for its publication, in order that the questions to which I have drawn attention may be examined before the Bill comes up for mature consideration."

The motion was put and agreed to.

**PUBLIC CHARITIES ACCOUNTS; PRESIDENCY-TOWNS  
INSOLVENCY.** 145

[20TH MARCH, 1908.] [*Dr. Rashbehary Ghose; Mr. Erle Richards.*]

The Hon'ble DR. RASHBEHARY GHOSE introduced the Bill.

The Hon'ble DR. RASHBEHARY GHOSE moved that the Bill, together with the Statement of Objects and Reasons relating thereto, be published in the Gazette of India in English, and in the local official Gazettes in English and in such other languages as the Local Governments think fit.

The motion was put and agreed to.

**PRESIDENCY-TOWNS INSOLVENCY BILL.**

The Hon'ble Mr. H. ERLE RICHARDS said :—"It will be within the recollection of Council that last session an Act was passed to regulate insolvencies in the Mufassal; an Act which, though it did not provide for every contingency and though in some respects it was incomplete, was at least up to date and effective within its limits. But the law for Presidency-towns—and for the purposes of today I include Rangoon within that term—has not yet been amended; it is still contained in the old Act for the relief of insolvent debtors enacted by the Imperial Parliament in 1848. The object of the Bill which I now ask for leave to introduce is to repeal that Act and to enact an efficient Insolvency Law for the Presidency-towns.

"My Lord, this is no new proposal; a Bill for a similar purpose was introduced in 1886 and appeared in our List of Business with unfailing regularity until a short time ago, while the necessity for legislation has been pressed on Government by High Courts and Chambers of Commerce for the past quarter of a century. We cannot therefore be accused of undue haste if we now take the proposal into serious consideration.

"The history of the various attempts to reform the existing law dates back to 1870 when Sir James Stephen proposed to enact a new law for the whole of India. This proposal was thought to be too ambitious; the Mufassal was not at that time ready for a Bankruptcy law; and the Bill was dropped. But when thirteen years later proposals to make some small amendments in the Act of 1848 were circulated, it appeared from the comments on those proposals that there was a widespread demand for an entirely new Act for the Presidency-towns. The matter was accordingly taken up by Sir Courtenay Ilbert, the Law Member at the time, and in 1883 a Bill was drafted and circulated, framed on the lines of the Act which had been passed in England two years before—the Act of 1883—in which the present law of bankruptcy was and still is consolidated. The opinions on

[*Mr. Erle Richards.*] [20TH MARCH, 1908.]

that Bill show a general agreement that the Act of 1848 was out of date and ineffective. There was, as indeed was unavoidable, a considerable difference of opinion as to details, but on the whole the Bill was favourably received. The mercantile communities of the Presidency-towns who are specially interested approved of it. The Madras Chamber of Commerce writing on the 9th September, 1885, expressed themselves in the following terms;

'The Chamber approves of the great advance that it is proposed to take in the direction of a clearly defined Bankruptcy Law for the trading centres of the whole country; it trusts that the Bill may become law, since it seems to the Chamber to be a very complete measure.'

'The Bombay Chamber, on the 25th November of that year, recorded that they were unanimously in favour of a new Insolvency Act. They said that the necessity of a radical reform in the Bankruptcy Law for India had long been keenly felt by the mercantile public, and had on numerous occasions been the subject of anxious consideration; that in the address with which the Chamber had had the honour to welcome the arrival in India of His Excellency the Viceroy the matter had been prominently mentioned as one of pressing importance; and that had it not become known that the Bill then under report was in preparation it had been the intention of the Chamber to memorialise Government begging that action might be taken at the earliest possible opportunity.

'The Calcutta Trades Association on the 14th of December wrote—

'It would be impossible, the Committee felt, to overrate the importance of the proposed Act to the trading community throughout India; they have consequently given to its provisions the most careful consideration, and are unanimously of opinion that the measure as a whole will afford assistance and protection to both debtor and creditor.'

'The Committee of the Bengal Chamber of Commerce on the 30th of April, 1886, recorded their opinion 'that the Bill made a much-needed improvement in the law then in force.'

'The Bill was modified in some respects to meet criticisms, and on the 20th of May, 1886, was introduced in this Council. There, for some reason which is not known, the matter seems to have stopped. Whether the legislature was engrossed in other projects or whether the very technical character of the subject chilled the enthusiasm of Council I do not know, but the only action taken was that in 1892 a Select Committee considered the Bill at one meeting and did no more, and that in 1899 a second Committee again took up the Bill and after one meeting reported that it should not be proceeded with until some modifications

[20TH MARCH, 1908.] [Mr. Erle Richards.]

had been made. Since then no further steps have been taken, but in the interval the Provincial Insolvency Act has been passed with the result, as the Chief Justice of Madras has pointed out, that the Law of Insolvency is enlightened and up to date in the Mufassal, while in the Presidency-towns it continues to be antiquated and inefficient. Writing in 1902, the Bengal Chamber of Commerce again urged the matter on the attention of Government. They observed that for years past the insolvency procedure in the Presidency-towns had been regarded as most unsuited to modern requirements and conditions and greatly in need of reform. They said that the necessity for the adoption of a reformed procedure had been often pressed; that that necessity was continuing and increasing and that the Committee felt that in the public interests and in the interests of the trading community the desired amendment of the law should not be longer delayed. The same Chamber have repeated this representation in connection with the Provincial Insolvency Act.

“ I think, my Lord, that I have said enough to show that in the opinion of the commercial community this legislation is needed, and I have no doubt that the High Courts will concur in that opinion. In fact our Act of 1848 is a survival of the old law partly contained in the Bankruptcy Law, partly in the Insolvent Debtors Law which was repealed in England so long ago as 1869 and was re-enacted there in an improved form in 1883. The Act gives adequate protection to debtors, but it does not give adequate powers for the realisation of assets in the interests of creditors. The protection of honest debtors should be a main object of any Insolvency Law, but consistently with that object the law should proceed on the principle that the estate is for the creditors and not for the debtor. Further than that, as I venture to suggest to this Council, the Legislature in an Insolvency Act should recognise that the trading methods and conduct of a debtor are not matters merely between him and his creditors, but concern the interests and the welfare of the whole trading community and of the State, and for that reason should insist on enacting sufficient powers for the prevention of fraud and for the punishment of dishonest debtors.

“ With these preliminary observations, my Lord, I turn to the provisions of the Bill, and I will call attention as briefly as is possible to the main lines on which it proceeds. In framing it we have had the assistance of Mr. Archibald Read, the Official Assignee of Madras, and his practical experience has been of great value. It will be found that the Bill follows generally the plan of the Provincial Insolvency Act. The difference in the conditions between the Presidency-towns and the Mufassal make it inexpedient to have one uniform

[*Mr. Erle Richards.*]

[20TH MARCH, 1908.]

Act for the whole of India at the present time : but there will be little difficulty in bringing the two Acts into complete agreement if it be thought wise to do so in the future.

“ The Bill commences in Part I by defining the constitution and procedure and powers of the Court ; but the provisions under this Part call for no special observations ; they do not effect any change of substance in the present law.

“ Part II deals with proceedings from an act of insolvency to discharge and commences with the clause defining acts of insolvency, that is, the events in which the law can be set in motion. This provision corresponds with that in the Provincial Act and is a great advance on the existing law. It gives a creditor the right of interfering at an earlier period and thus of anticipating the disappearance of assets.

“ Under the existing law there are five stages in insolvency—vesting order, interim protection, further hearing, personal discharge, and final discharge. Under the Bill these will be reduced to three—hearing of the petition if opposed, public examination of the debtor, and discharge. The order of adjudication under the Bill operates of itself to protect the debtor ; it is not therefore necessary to preserve the stage of interim protection or the stage of personal discharge. In regard to the order of adjudication it is to be observed that the Bill departs from the Bill of 1886 and from the English law in that it omits the preliminary of a receiving order. It is thought that this preliminary order is unsuited to Indian practice. In England it was introduced mainly on the sentimental consideration that it was a harsh proceeding to make a man a bankrupt before the Court and the creditors had determined how his estate was to be dealt with. In practice, however, the public sees no difference between a receiving order and an adjudication in bankruptcy ; either procedure equally affects a man's financial credit ; experience has shown therefore that there is no reason for maintaining the double system on this ground ; and all practical hardship can be avoided by the clauses which provide for the annulment of the adjudication when a composition or scheme is approved of. On the other hand, a receiving order under which the property remains vested in the debtor while the control of it is vested in the official receiver gives rise to endless complications and delays. Adjudication under the Bill therefore takes place on the petition and will be made as of course on a debtor's petition and on a creditor's petition if unopposed. There is no power to dismiss a debtor's petition as a punitive measure, but the Court may withhold discharge in cases of misconduct. The provisions of the existing law relating to the filing of a schedule of debts are retained.

[20TH MARCH, 1908.] [Mr. Erle Richards.]

"The public examination of the insolvent is a cardinal feature of the scheme of the Bill; it is intended to insure the publicity of the proceedings and to give creditors an opportunity of making inquiry into the affairs of the debtor if they think fit so to do. This is taken from the English practice. The Bill further provides for compositions and schemes of arrangement, following in this, the Provincial Act.

"Discharge must be withheld or suspended or made conditional in certain events, such as the misconduct of the debtor, and in this the Bill follows the English law and the Provincial Act.

"Part III of the Bill deals with the administration of the property, the proof of debts, and so on. Attention is called to clauses 43 and 44 which avoid transfers of property made by the insolvent within certain periods before the insolvency. These clauses again are taken from the Provincial Act and from the English law.

"Part IV raises the question of the person by whom estates are to be administered. In India administration must be, it is thought, by the official assignee: administration by trustees or representatives of the creditors would in all probability lead to abuses. The Bill therefore departs from the English Act on this point and enacts that estates are to be administered by an official assignee only. Under the existing law there is power for the creditors to appoint special assignees, but this power has never been used so far as can be ascertained: it is idle therefore to re-enact it. But two proposals are embodied in the Bill with the object of securing to creditors some influence in the administration: they are put forward for consideration. The first is that there should be meetings of creditors not only to consider proposals for compositions or schemes of arrangement but also to consider the insolvent's affairs and the best method of dealing with his property. This will be found in clause 23, and clause 69 specifies the extent to which the assignee is bound to obey the directions of the creditors. It will be seen that the ultimate control is reserved to the Court by the latter clause. Under the rules at present in force in Madras provision is made for similar meetings, and experience there appears to support the present suggestion. The second proposal is contained in Part V; it is that in cases in which the Court thinks fit to do so, a Committee of inspection of the creditors may be appointed. This is new to Indian law but is thought to be worth consideration. In large insolvencies such as the recent case in Madras a power of this kind would give creditors a larger opportunity of assisting in the realisation of the estate. It will be observed that here again the powers of the Committee are made subject to the control

[*Mr. Erle Richards.*] [20TH MARCH, 1908.]

of the Court : if the experiment is to be tried it seems wise that the Court should regulate it ; at any rate, until it has been proved by experience.

"Part VI deals with procedure in special cases and will, it is thought, be of considerable use in practice.

"Part VII contains the penalty clauses.

"In Part VIII provision is made for the summary administration of small estates.

"Part IX contains powers to administer the estate of a person dying insolvent.

"Part X authorises the Court to make rules with the previous sanction of the Governor General in Council or of the Local Government, as the case may be, and does away with the necessity of obtaining the consent of His Majesty to rules. Under this power the Courts will be able to retain the greater part of the existing rules if it be so desired.

"These, my Lord, are the main provisions of the Bill. There are other points which merit discussion, but I will not occupy the time of Council by calling attention to them on the present occasion. They are sufficiently referred to in the Notes on Clauses.

"The Bill, if it be passed, will repeal the Act of 1848, and this raises a question of some legal difficulty. Under that Act insolvency proceedings in India have force in the United Kingdom, but proceedings under an Indian Act cannot operate outside India ; we cannot legislate for the United Kingdom. It follows that if we repeal the Act of 1848 we shall lose the advantage we now have under it in this respect. We shall then be in no better position than British Colonies, and indeed in some respects we shall be in a worse position, for the title of a colonial assignee in bankruptcy in regard to assets in England may in some cases be founded on the fact that the insolvent is domiciled in the colony, whereas English merchants are not commonly domiciled in India. But it is understood that these provisions of the existing law are seldom, if ever, made use of in practice, and that if there are assets in England concurrent proceedings are invariably instituted there. The loss therefore would appear to be of no practical importance. In any case it is certain that we cannot postpone the amendment of our law indefinitely in the somewhat distant hope that Parliament may some day pass an Act to give direct effect in the United Kingdom to Indian insolvency proceedings.

[20TH MARCH, 1908.] [Mr. Erle Richards.]

"If this motion be carried, my Lord, and the Bill be published and circulated, it will, I trust, receive the careful consideration of the lawyers and the merchants of the Presidency-towns and Rangoon. It will perhaps be objected by some among them that the Bill makes too great a departure from the existing law; but I would anticipate that objection by observing that it is not possible, or at least that I have not found it possible, to build up an efficient structure on the antiquated foundation of the present Act. The Government of India agree with the Chambers of Commerce and those who were consulted in 1885 that there must be a new law. The subject is an intricate one and on points of detail there is certain to be a considerable difference of opinion; but if the main lines on which this Bill is framed are accepted, then it should be possible to come to some agreement on the less important points and to pass the Bill into law in the course of the next Calcutta session."

The motion was put and agreed to.

The Hon'ble MR. ERLE RICHARDS introduced the Bill.

The Hon'ble MR. RICHARDS moved that the Bill, together with the Statement of Objects and Reasons relating thereto, be published in the Gazette of India in English, and in the local official Gazettes in English and in such other languages as the Local Governments think fit.

The motion was put and agreed to.

The Council adjourned to Friday, the 27th March, 1908.

J. M. MACPHERSON,  
Secretary to the Government of India,  
Legislative Department.

CALCUTTA ;  
The 20th March, 1908. }





*Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Indian Councils Acts, 1861 and 1892 (24 & 25 Vict., c. 67, and 55 & 56 Vict., c. 14).*

The Council met at Government House, Calcutta, on Friday, the 27th March, 1908.

PRESENT :

His Excellency the Earl of Minto, P.C., G.C.M.G., G.M.S.I., G.M.I.E., Viceroy and Governor General of India, *presiding*.

His Honour Sir Andrew Fraser, K.C.S.I., Lieutenant-Governor of Bengal.

His Excellency General Viscount Kitchener of Khartoum, G.C.B., O.M., G.C.M.G., G.C.I.E., Commander-in-Chief in India.

The Hon'ble Mr. H. Erle Richards, K.C.

The Hon'ble Mr. E. N. Baker, C.S.I.

The Hon'ble Major-General C. H. Scott, C.B., R.A.

The Hon'ble Sir Harvey Adamson, Kt., C.S.I.

The Hon'ble Mr. J. O. Miller, C.S.I.

The Hon'ble Mr. W. L. Harvey, C.I.E.

The Hon'ble Sir Rameshwara Singh, K.C.I.E., Maharaja Bahadur of Darbhanga.

The Hon'ble Munshi Madho Lal.

The Hon'ble Mr. Gangadhar Rao Madhav Chitnavis, C.I.E.

The Hon'ble Mr. H. W. W. Reynolds.

The Hon'ble Mr. H. A. Sim, C.I.E.

The Hon'ble Tikka Sahib Ripudaman Singh of Nabha.

The Hon'ble Dr. Rashbehary Ghose, C.I.E., D.L.

The Hon'ble Mr. Gopal Krishna Gokhale, C.I.E.

The Hon'ble Mr. A. A. Apcar, C.S.I.

The Hon'ble Mr. S. Ismay, C.S.I.

The Hon'ble Maung Bah Too, K.S.M.

The Hon'ble Mr. W. W. Drew.

The Hon'ble Nawab Saiyid Muhammad Sahib Bahadur.

The Hon'ble Mr. W. R. H. Merk, C.S.I.

The Hon'ble NAWAB SAIYID MUHAMMAD SAHIB BAHADUR asked :—

"Is Government aware that as a consequence of the failure of Messrs. Arbuthnot & Co., in Madras, many Government servants, who could not invest money in lands, lost all their savings?"

[*Nawab Saiyid Muhammad Sahib Bahadur ; Sir [27TH MARCH, 1908.] Harvey Adamson ; Mr. Chitnavis ; Mr Harvey ; Mr Miller.*]

"In view of the suffering caused by the said failure, will the Government be pleased to amend the Rules for the conduct of Government servants by omitting the words 'or subordinate' in paragraph 3 of rule 9 and to cancel paragraph 4 of the said rule?"

The Hon'ble SIR HARVEY ADAMSON replied:—

"Government are aware that the failure of Messrs. Arbuthnot & Co. caused heavy losses to members of all classes of the community who had dealings with that firm.

"The question whether the rules should be revised is under consideration."

The Hon'ble MR. CHITNAVIS asked:—

"Is the Government aware that Japan supports its industries by a system of bounties, and that in consequence of such support, cotton goods, especially hosiery, made in Japan have an advantage over goods made in India in the market here? Is the Government further aware that the large hosiery department of the Bomanji Patel Mills of Bombay has had to be closed on account of Japan underselling her goods in India? Will Government be pleased to take such steps in the matter as will protect Indian industries from competition of this nature and equalise trade conditions?"

The Hon'ble MR. HARVEY replied:—

"Government have no definite information regarding the first and second parts of the question, but they will make enquiries and communicate such information as may be available. Until they know the facts of the case they are unable to say whether it will be possible to take any action."

The Hon'ble MR. CHITNAVIS asked:—

"Is the Government aware that prices of plough-cattle have risen abnormally all over the country during the past few years? In view of the paramount importance of the sufficiency of cattle in an agricultural country like India, will Government be pleased to inquire into the causes of the rise, and to take adequate steps for the improvement of the stock, and thereby to remove the anxiety of the agricultural population in this respect?"

The Hon'ble MR. MILLER replied:—

"The latest statistics available do not show that the price of plough-cattle as risen over the whole of India, but it has undoubtedly risen over a

[27TH MARCH, 1908.] [*Mr. Miller ; Nawab Saiyid Muhammad Sahib Bahadur.*]

great part of the country and frequently to a very great extent. The Government of India fully recognise the paramount importance of cattle to the agriculture of the country and have on that account given much attention to the development of the Civil Veterinary Department, which has already been able to do much good work in the prevention of disease. They have also made special arrangements on the occasion of droughts to prevent mortality amongst cattle from failure of the fodder supply. In 1906 the Government of India placed before Local Governments a scheme for making a complete cattle survey of India with a view to the improvement of the stock, and the proposals have in most cases been accepted in principle though their prosecution is impeded by the want of a sufficiently strong and well trained staff. The Government of India must leave it to Local Governments to carry out this enquiry. They do not consider that any separate enquiry is necessary."

The Hon'ble NAWAB SAIYID MUHAMMAD SAHIB BAHADUR said:—"My Lord, the principal feature of the Financial Statement presented to this Council is an attempt to grapple with the famine which has unfortunately appeared in the country. The disaster is not so great as in 1896 and 1899, but still it is sufficiently serious and extensive to give rise to considerable anxiety and to necessitate large suspensions of revenue. The experience of previous famines has been utilised to adopt early and effective measures to afford relief and to help the agricultural classes to resist the terrible affliction that has befallen them. The tract most seriously affected is the United Provinces, and the Government of Sir John Hewett is to be warmly congratulated on the prompt and energetic measures taken to prevent suffering and distress, and the takavi advances have been more liberal than in the previous two famines. I am glad that the Hon'ble the Finance Minister recognises the energy and determination with which the people have themselves faced the calamity. Not only so, but the patience and resignation with which they submit to suffering and distress are worthy of all admiration. Taking the most hopeful view of the situation and noting the fact that the more painful conditions associated with the prevalence of distress are absent, the position is still very grave, and it will be very creditable to the Administration if loss of life in areas where the distress is acute, is averted.

"I gratefully recognise the measures that have been taken to relieve suffering and to help the people to tide over the calamity, but I regret that the Statement makes no mention of what has been done to save agricultural cattle, which are so essential to cultivation. It may happen that the

[*Nawab Saiyid Muhammad Sahib Bahadur.*] [27TH MARCH, 1908.]

agriculturist who is helped or relieved by the State may lose his cattle and in the next sowing season may not have the wherewithal to buy fresh animals. One way of preserving cattle to a certain extent when fodder becomes scarce is to relax the rules that regulate grazing in the forest reserves as far as may be possible, consistently with silvicultural interests. I believe something in this direction has been done by the Local Governments concerned, but the departmental rules are far too rigid and enforced with little regard to agricultural interests. The Madras Government in reviewing the last report of the Forest Department deprecates the attempt to estimate the quality of the work in different districts by the percentage of convictions obtained. It is to be feared, that this is the standard of efficiency everywhere. I would, therefore, suggest that just as revenue is suspended or remitted and takavi advances given to help the agricultural population, so should the forest-rules be suspended when fodder is scarce and the utmost latitude allowed for cattle-grazing.

“My Lord, these are but palliatives. The permanent causes of poverty and economic indigence of the people remain, and challenge scrutiny. If I may adopt one of Lord Curzon's phrases, it is a baffling, without being a hoary, enigma. But I cannot believe, my Lord, that the Government is unable to solve this problem of recurring famine and perpetual indigence. The position has become acuter of late years, in consequence of the depreciated purchasing power of the rupee. I do not know whether grain compensation allowance is destined to play as demoralising a part in Indian finance at the present day as falling exchange did in the nineties of the last century. However that may be, the fact remains that the Hon'ble the Finance Minister is faced with a situation that his predecessors in 1896 and 1899 had not to face, namely, the rise in prices, which indicates a position worse than that of periodical famine, in that it is normal and ever present, and which the Imperial and all Provincial Governments recognise, casts on them a new responsibility with respect to a numerous class of public servants. As against the perfection of the machinery which the Government is in a position to set working against purely famine conditions, we have this disturbing element of normal high prices. I trust that this aspect of the matter has not been lost sight of by the Hon'ble the Finance Minister.

“It is a point worth considering in this connection whether the Government of India can afford to remain indifferent to schemes of permanent utility and promotion of material prosperity of the people. The Government of India has not yet formulated a scheme of technical education that would provide sufficient scope for the employment of the artisan classes. The great principle, my Lord,

[27TH MARCH, 1908.] [*Nawab Sa'iyid Muhammad Sahib Bahadur.*]

upon which I take leave to lay special emphasis is this, that simultaneously with the initiation of measures of agricultural education and experiment, Government (no matter whether through Imperial, Provincial, or local agency) should undertake a no less intensive than extensive scheme of technical education. My Lord, the attempts made in this direction have been local in their origin, spasmodic in their working and inadequate in their results. I venture to think that the necessities of the situation call for an entire reversal of the policy which has hitherto found favour with the Government. Progress of a sort is being made in different provinces, but its superior financial position enables or ought to enable the Government of India not only to lead and direct local activities but also co-ordinate local efforts. While certain provinces have progressed more than others in the matter of preparation and preliminary work, others have lagged behind; so much so, my Lord, that provincial advance has run on somewhat indifferent lines. Even in the case of more advanced of the provinces in the matter of industrial education, it is open to question whether their individual progress is not retarded by the Imperial *vis inertia*. Therefore, my Lord, it seems to me highly important that a scheme should be matured, which, while stimulating provincial activities, would at the same time co-ordinate industrial effort so as to promote the best interests of industrial progress.

"In view of the present financial position, I am not disposed to dwell upon the absence of any provision for the advancement of primary education, but it is not too much to hope that the Imperial Government's circular letter to the Local Governments will result in a large and beneficent scheme of primary education being adopted in the near future.

"My Lord, closely allied with the progress of whatever schemes of primary or technical education, or indeed of famine relief, legislative improvement or constitutional change is the need of large measures for the improvement of public health. While welcoming the small grant which Government has made for sanitary improvement, I trust I shall not be deemed ungrateful if I say that 30 lakhs of rupees seems utterly inadequate for the needs of the country. I welcome it, however, as an example of Government's good intentions. I hope also that the new departure in Imperial policy will stimulate the liberality of Provincial Governments in future if not at present. The condition attached to the Imperial assignment of 30 lakhs of rupees implies that the Imperial Government is disposed to view the execution of sanitary measures for the prevention of plague as even more important than for other purposes. There are parts of the country in which malaria and fevers are causing a greater loss of life than plague, and in which the execution of large water-supply and drainage schemes

[*Nawab Saïyid Muhammad Sahib Bahadur ; Maung Bah Too.*] [27TH MARCH, 1908.]

are imperatively called for. I hope the condition attached to the assignment will be liberally interpreted so as to permit the utilisation of the grant according to the special needs and circumstances of the different provinces.

"Speaking from a purely financial point of view, I am constrained to repeat my observations at the last Budget debate with reference to the subject of reduction of expenditure. As I said last year, the need for judicious economy in expenditure is becoming greater year after year. I fail to see any well-directed effort to promote retrenchment, whilst on all sides the tendency is to increase expenditure.

"Considering the heavy call on the resources of the Government and the temporary or permanent abandonment of a large portion of revenue, it is not to be wondered at that the Hon'ble the Finance Minister is not in a position to announce any remission of taxation or any expensive scheme of administrative improvement; rather is he to be sympathised with in his efforts to maintain a state of financial equilibrium.

"Nothing can be more emphatic proof that the former rate of duty on salt pressed heavily upon the people than the remarkable increase in consumption since the reduction of the duty. The Hon'ble the Finance Minister is of opinion that even with a great increase in consumption the former revenue from salt is not likely to be realised, but the money has been well lost and the sacrifice has been made in the true interests of the people. In the interesting statement that he makes to show that even in European countries the State derives a revenue from salt, and the system is not confined to India, the Hon'ble Member, I may say, has omitted to mention the comparative incidence of consumption per head of population in those countries and India. That would have been more instructive and would have enabled us to judge whether the people of India even now get a fair share of salt in ordinary times.

"The contraction in the opium revenue, already foreshadowed, has actually commenced in the present Statement, and the probability is that with the co-operation of the Chinese Government the opium habit among the Chinese people will gradually become extinct. The surrender of revenue on the part of the Government of India will be large, but not sudden, and there will be ample time to readjust the resources and expenditure so as to eliminate the revenue from opium. In the Hon'ble the Finance Minister's words, this money also will be well lost and will have the sanction of the highest morality."

The Hon'ble MAUNG BAH TOO said:—"My Lord, on behalf of the people of Burma, I must acknowledge with gratitude the annual grant of three lakhs

[27TH MARCH, 1908.]

[*Maung Bah Too.*]

from Imperial to Provincial funds for sanitary measures in large towns. The contribution is most acceptable and can be used to great advantage. The need of assistance to municipal and town funds in carrying out schemes of water-supply and drainage has long been recognised. The help now afforded will enable Government to grant substantial assistance towards these objects.

" I welcome the opportunity of making a few remarks on matters connected with the interests of the Province which I have the honour to represent. When the Budget of 1907-1908 was under discussion, my predecessor, Mr. Hall, commented on the terms of the settlement recently made by the Government of India for the distribution of the revenues and expenditure of Burma between Imperial and Provincial funds. He represented that sufficiently liberal terms had not been accorded and that sufficient provision had not been made for the expansion of that young and vigorous Province. Your Excellency has recently visited Burma and you have seen with your own eyes its needs and capabilities. The people of Burma welcomed Your Excellency with loyalty and enthusiasm; and, speaking on behalf of the people of Burma, I can say that their enthusiasm was genuine and uninspired and that they regard Your Excellency's visit as a great event in their history. I venture therefore to ask for Your Excellency's sympathy with my plea.

" As was foreseen and represented by the local authorities, the allotment for public works in the new settlement is entirely insufficient. Prices of labour and material are very high; and, as Your Excellency has seen, the Province is exceedingly ill-equipped with roads and buildings. The backward state of communications is a standing reproach. The needs of the Province are many and it is impossible to expect the revenue to go on increasing by leaps and bounds. An unfavourable season, such as that of the current year, in parts of Upper Burma, sets back the growth of revenue and reduces the Provincial finances to a serious state. Of one great item of revenue, the export duty on rice, which, by the way is not levied on rice exports to other parts of India, the Province gets no share. All of it goes to Imperial revenues. There are no accumulated balances on which to draw. The Budget of the coming year provides only for the exact minimum closing balance; and I am informed that the Budget of the Public Works Department provides nothing for new works. The whole of the funds available will be absorbed by repairs and maintenance and works in progress. In these circumstances, I venture to ask the Hon'ble the Finance Member to consider the possibility and expediency of making a further substantial annual contribution from Imperial Funds to the Province of Burma to meet absolutely necessary expenditure.



[Maung Bah Too; Mr. Apcar.] [27TH MARCH, 1908.]

"I desire also to urge most strongly the claims of the Province to a substantial allotment for railways. At the present time, the only railway line in progress is that from Henzada to Kyangin, and, owing to lack of funds, its progress is slow indeed. Yet there are many projects which should be carried out at an early date. There is the all-important line to the Southern Shan States; there are lines in the Delta of the Irrawaddy; there is a line from Akyab to Chittagong with eventual connection between India and Burma. These are the most important among many proposed railways. I trust that in the distribution of available funds Burma will not be overlooked, but that a substantial allotment may be made for new lines and that at least one important work, preferably the Southern Shan States line, may be begun next open season.

"In conclusion, I beg to say that Burma yields to no Province of the Empire in loyalty to the British Crown and in appreciation of the benefits of settled Government. She has a special claim to the consideration, care and sympathy of her rulers."

The Hon'ble MR. APCAR said :—"My Lord, as regards Railways and Railway Finances, I have to congratulate the Hon'ble Member on the fact that he was able after all to provide 15 crores for Railway Capital Expenditure during 1907-1908 and on his having provided for a 15-crore programme for 1908-1909. At the same time it is to be regretted that there should have been any question as to whether this amount of money would be provided or not. The uncertainty as to what funds will be available for each Railway over a series of years must greatly increase the difficulty of the Railway Administrations in providing adequate facilities to meet the expansion of trade and must also prevent the best use being made of the money. The inability of open lines to deal with the traffic which some years ago was expanding rapidly and which is still expanding, and which I believe will continue to expand at an equal, if not greater, ratio, is largely due to the short-sighted policy of the past. That the Railway Board have now seen their way to provide for expenditure on open lines to the extent of 60½ lakhs and also a sum for rolling-stock to an extent of 57½ lakhs is satisfactory. I only hope that these sums are sufficient, but I fear they are not, for there is still a very great amount of lee way to be caught up on account of the policy which existed during previous years. With a rapidly increasing trade, works designed as sufficient for what is called the immediate future are often already almost insufficient as soon as the works are completed. I have said I believe that it is the mistaken policy in the early years of this century, when the demands of the Railway Administrations for open line works were

[27TH MARCH, 1908.]

[Mr. Apar.]

criticised and cut down to meet immediate requirements, which is accountable for the difficulties which are now experienced in dealing with the present traffic. Although I rejoice to see that the 15-crore programme is to be worked to for 1908-1909, I believe that it is extremely doubtful whether a 15-crore programme is sufficient and whether we do not now require for the Railway works in India a 20-crore or even a larger programme.

" With reference to the Revenue Accounts, although these accounts have not shown such a large surplus during 1907-1908 as was anticipated, yet there is a satisfactory surplus and the Railway property of the Government of India is a most valuable asset. During the coming year the nett receipts are estimated at a slightly larger figure than during the past or present year. It is evident that gross receipts are steadily increasing, and though there is a tendency for working expenses to increase at a faster ratio than the receipts, this is not to be wondered at, since in addition to the Capital Charges a considerable proportion of the expenditure necessary to bring the existing lines up to a standard to meet increased traffic is charged to Revenue Working Expenses. The satisfactory movement in recent years towards lowering rates and fares must also be taken into account. We have seen reduced fares introduced on the East Indian Railway and other Railways, extra concession given for, week-end tickets and other holidays. We have also recently seen large reductions in rates specially in connection with long distance coal traffic. With the reduced rates and freight charges which are developing the resources of the country and a heavy revenue expenditure in improving the facilities on open lines and with the largely increased price of coal, I consider that the increase in the ratio of working expenses to receipts is not surprising and is only what may be expected.

" I greatly regret that Sir James Mackay's Committee were unable to visit India and consult personally with the Chambers of Commerce regarding Railway Finances and other matters. I believe, however, that most Chambers of Commerce in India have reported in favour of the separation of the Railway Finances from the General Finances of India, so that the funds necessary for Railway development may be raised to a greater extent than formerly on the security of the Railway property. Sundry suggestions have been made that the Railways should all be worked by the State, but I believe such views are only held by a small section of the public and that the general opinion would be that, as Government in the past have been unable to supply funds to the extent which our Railways have undoubtedly required, the working of the Railways by Companies should be further extended and that such Companies should be

[Mr. Apar.]

[27TH MARCH, 1908.]

granted facilities to raise funds for the development of their lines as required from time to time.

"In my remarks last year on the Budget I referred to the fact that two engineering firms in Calcutta had recently put down wagon-constructing plant, and I urged that every encouragement should be given to them to extend their works, especially as a large percentage of the expenditure on rolling-stock is for labour, which sum might very well be expended in the country. I regret to learn that these works have not at present got sufficient orders and that they may have to reduce their establishment. I hope that steps will be taken to obviate this and to ensure that a steady flow of works should be given to those who by their enterprise have started wagon works in India.

"I would desire to refer to the question of the construction of new lines. This I thoroughly agree must be subservient to the requirements of existing lines, and the Railway Board with the limited resources at their command have undoubtedly acted wisely in fixing the allotment for new lines at a very small figure. The necessity for this is to be regretted, and in the interests of India as a whole and in the interests of trade I would have been glad to see a very much larger allotment had funds permitted of it. However small the sums available for new lines, I consider that the Sara Bridge Project should have found a place in the allotment for new works. The commercial community of Calcutta consider that this is the most urgent undertaking and cannot but look with amazement on the fact that this project, which has been urged by the Chamber of Commerce and the Calcutta community for years, has not yet received sanction of Government. So much has on former occasions been said as to the necessity for this urgent work, and seeing that the Commission appointed to report on it most strongly advised more than a year ago that the work should be undertaken without delay, that it is a matter of great surprise that even with the small sums available for new construction a grant should not have been given for the Sara Bridge.

"The necessity put forward for starting the Nagpur-Itarsi is on account of famine conditions. Still I consider that this line, which is estimated to cost 410 lakhs, might well have waited till the completion of the Sara Bridge Project.

"As regards the allotment for a short line of 44 miles to serve Messrs. Tata's Iron and Steel Works, I believe that the construction of this work must be undertaken at once to comply with an undertaking given that a branch line to the Iron Ore deposits would be made by the Bengal-Nagpur Railway as

[27TH MARCH, 1908.]      [Mr. Apar.]

soon as the Capital required by the Tata Iron and Steel Works for the construction of the works had been subscribed.

“The establishment in India of large iron and steel works with capital raised in this country is in the best interests of India, and the enterprise should receive every reasonable encouragement.

“Another matter that is in the nature of hope long deferred is the Calcutta Improvement Scheme. My Lord, what am I to say about this that I have not said before, both here and in other places? The state of Calcutta and the necessity for improvement have been before the Government for the last quarter of a century. Ten years ago a Medical Board was appointed for the purpose of checking the spread of the plague.

‘In exercise of the powers then delegated to them, the Board deputed six Medical Officers to make a sanitary survey of the town and suburbs of Calcutta with reference to certain points indicated for enquiry. The reports of these officers disclosed an appalling state of things; but I do not propose to drag the Council through all this mire. I will merely read a summary which omits the detailed horrors of the reports:—

- (i) *Overcrowded and badly built houses.*—In many parts of the town and suburbs they found that both *pakka* houses and bustee huts were dangerously overcrowded, and were built in a manner which rendered proper ventilation and efficient conservancy almost impossible.
- (ii) *Defects of public latrines.*—The public latrines and urinals were in many cases faulty in construction; they were imperfectly cleaned and their number was insufficient to justify even a limited application of the penal provisions of the law in regard to nuisances.
- (iii) *Defects of private latrines.*—The private latrines were in many cases so constructed that they could not be properly cleaned, nor could the Conservancy Officers get access to them; and consequently many of them were choked with accumulations of filth.
- (iv) *State of house-drains and down-pipes.*—The house-drains and down-pipes were in many cases broken, choked, and out of repair.
- (v) *State of surface-drains.*—The surface-drains were blocked with foul matter, latrines were allowed to discharge into them, and the drains themselves were often used as latrines.
- (vi) *Neglect of road-scavenging.*—The scavenging of the roads was imperfectly carried out, the staff was inadequate for the work, and the subsoil had become dangerously polluted.

[Mr. Apar.]

[27TH MARCH, 1908.]

(vii) *State of compounds and courtyards.*—The condition of the compounds and courtyards of houses was in many cases extremely filthy.

(viii) *Pollution of wells.*—Wells in courtyards were contaminated by the percolation of sewage impurities from the soil.

(ix) *State of cowsheds and stables.*—Cowsheds and stables were situated in thickly populated places, their construction was faulty, they were greatly overcrowded, and their flooring was soaked with sewage which polluted the wells on the premises.

(x) *State of hackney carriage stands.*—The number of hackney carriage stands was wholly insufficient to meet the current requirements of the town, and they were imperfectly flushed and cleansed.

(xi) *Condition of bustees.*—Most bustees were badly drained and imperfectly ventilated, the huts were too close together, the latrine arrangements led to the pollution of the soil, the roads and lanes were too narrow, and conservancy was imperfectly carried out.

‘On these reports the Chamber of Commerce observed in a letter signed by the late Mr. Clarke :—

“No one can rise from even a cursory perusal of these reports without having the conviction forced upon the mind that there exist in Calcutta conditions of insanitation which constitute a permanent and standing threat against the health of the inhabitants and the prosperity of the city. This would be sufficiently serious if it concerned Calcutta alone, but the Committee cannot blind themselves to the position which Calcutta occupies with respect to the rest of the province and to India generally. It is in a special sense the point to which all classes throughout the country are attracted, and from which they are dispersed over immense areas, either in the pursuit of business, or in obedience to the impulses of religion. Further, the enormous and widely distributed trade of the city makes the health of the inhabitants a matter of constant interest over almost the whole of the world. When viewed in this manner, the state of the city, as disclosed by the Report of the Medical Boards, calls for more than the attention of the Municipal Commission entrusted with the ordinary care of the City; it is a matter which concerns not only the Government of Bengal, but the Supreme Government, and it is sure, the Committee think, to attract very special attention in England, as well as in other countries.”

‘The description given by the Sanitary Officers of the condition of parts of Calcutta was borne out by the personal observation of the members of the Board, all of whom, with the exception of the native member, who was in bad health, visited the streets and houses, the conservancy of which had been most conspicuously neglected. The reports were also confirmed in the fullest detail and supplemented in innumerable similar instances by the reports and evidence of Dr. Banks, who had large experience of practical sanitation as Civil Medical Officer of Puri, and was for this reason selected by the Lieutenant-Governor for the post of the Chief Superintendent of Conservancy in Calcutta, a temporary appointment, the Chamber observed, sanctioned by the Commissioners early in October, 1896.

“These evils are no new things in Calcutta. They had for the most part been discovered; although not so fully set forth, by Mr. Beverley’s Commission in 1884. But

[27TH MARCH, 1908.] [Mr. Apar; Mr. Gokhale.]

they are a far greater danger to the town now than they were then. For in the meantime the relations of Calcutta to the commercial world at large have been drawn materially closer, and the sanitary condition of the City attracts and promises to continue to attract the critical attention of foreign nations to a large and increasing extent. This is due to two causes the great extension of communications which has taken place throughout the world, and which, as Bombay, the Punjab and the North-Western Provinces now know only too well, facilitates the conveyance of infectious diseases from one country to another, and the growth of the science of bacteriology, which traces disease to microscopic organisms and seeks to ascertain the conditions which govern the development of these organisms and their transmission from place to place. It follows further that as the interests threatened are in the first instance those of the foreign trade, not of Calcutta only, but of the whole of Northern India and Assam, the time has come for the representatives of the commercial community to take an active part in the administration of the City. I say in the first instance advisedly, for there is no interest in Calcutta that must not stand or fall with the commerce of the town. Commerce has made Calcutta: when commerce deserts it, house-property will dwindle in value, lawyers will lose their clients, schools their pupils, and Calcutta will become a city of the dead."

"These were Sir Herbert Risley's remarks in the Bengal Council on the 19th March 1898. My Lord, I can add nothing to them. The state of things then disclosed has remained the same for ten long years. I would ask how much longer is this to continue and how much longer are we to have the stereotyped reply of the Home Member that 'there is every prospect of the scheme for the improvement of Calcutta soon coming to a successful issue.' These were the words used by the Hon'ble the Home Member exactly twelve months ago. May I ask if the word 'soon' is understood by Government to mean something different to the ordinary acceptance of the word?"

-- The Hon'ble Mr. GOKHALE said:—"My Lord, I confess it was with a sense akin to relief that I read the opening paragraphs of the Statement which the Hon'ble Member has laid before the Council this year. Direct expenditure on famine relief is a fair test of the extent and intensity of a famine. And judged by this test, the calamity that has overtaken the country again this year, though undoubtedly very great, is still not so appalling as the famines of 1877 or 1897 or 1900. The famine of 1877 cost the State for purposes of direct relief a sum of  $7\frac{1}{2}$  crores of rupees; that of 1897 also cost nearly  $7\frac{1}{2}$  crores; while in 1900 the amount expended exceeded  $9\frac{1}{2}$  crores. Compared with these figures, one feels thankful that this year's famine will not require more than two crores for direct relief. Of course this is on the assumption that the next rainfall will be normal, and for the present one can only hope that it will be normal. Meanwhile it is a pleasure to acknowledge the manner in which the

[Mr. Gokhale.] . [27TH MARCH, 1908.]

Government is endeavouring to meet the distress everywhere. By far the largest area affected is in the United Provinces, and these Provinces are fortunate in their present ruler. I am sure Sir John Hewett's famine administration will be remembered as gratefully as that of Sir Antony MacDonell in the same Provinces in 1897, and of Sir Andrew Fraser in the Central Provinces in 1900.

"I am not sure that the Hon'ble Member is quite correct when he says that the financial position of this year is stronger than that in 1900-1901. It is true that Mr. Clinton Dawkins had budgeted in 1900-1901 for only a small surplus of £163,000, while the Hon'ble Member estimates the surplus for the coming year at £571,500. But, in the first place Mr. Clinton Dawkins had closed the year 1899-1900 with a surplus of over 4 crores of rupees, after finding over three crores for famine relief in that year, whereas the Hon'ble Member, who has been called upon to find during the current year not more than 77 lakhs for famine relief, closes the year with a surplus of 35 lakhs only. Even this surplus of 35 lakhs is more apparent than real. It is a surplus in the accounts of the Government of India.\* But as the Provincial Governments have during the year depleted their balances by about  $1\frac{1}{2}$  crores, the net result of the year's revenue and expenditure transactions for the country as a whole is a deficit of about 115 lakhs and not a surplus of 35 lakhs. Again, though Mr. Clinton Dawkins had estimated the surplus for 1900-01 at about 24 lakhs, the actual surplus realised at the end of the year turned out to be over  $2\frac{1}{2}$  crores, or ten times the modest figure budgeted for, and this after spending over  $6\frac{1}{4}$  crores on famine relief. On the other hand, the Hon'ble Member provides only 130 lakhs for famine relief during the coming year and he budgets for a surplus of 85 lakhs, against which we have a further depletion of cash balances by Provincial Governments to the extent of 79 lakhs. This does not show that the financial position today is stronger than it was eight years ago. Of course the level of taxation has been lowered since 1900, but that does not alter the real character of the comparison.

"There is one observation of the Hon'ble Member on the subject of this year's famine to which I deem it necessary to take strong exception. The Hon'ble Member points out that the number of those who are in receipt of State relief this year is smaller than on the last two occasions, and he regards it as a reasonable conclusion that this is partly due 'to the greater resisting powers of the people.' Now, my Lord, I think the facts which the Hon'ble Member himself mentions in his statement—*vis.*, that the failure of crops has been less extensive and less complete this time than in 1897 or 1900, and that takavi advances have been made far more liberally and far more promptly than before—are in them-

[27TH MARCH, 1908.] [Mr. Gokhale.]

selves quite sufficient to explain the difference in the number of applicants for State relief. Considering the extent of the area affected, the depth of the distress caused, and other circumstances of this year's famine, I venture to think that one and a half millions is not at all a small number to be in receipt of State relief at this time of the year. I can assure the Hon'ble Member that no one will be better pleased than myself, if the Government of India will order a regular and careful enquiry into the condition of a few typical villages so as to ascertain whether the resisting powers of the people are increasing or diminishing. The Famine Union in London has been demanding such an enquiry for a number of years, and not a few distinguished names in England have associated themselves with this demand. But the Government of India, for reasons best known to itself, shrinks from such an investigation. That being so, I think the Hon'ble Member is not entitled to deduce such a conclusion from such slender premises in so important a matter. The Famine Commission of 1898 tried in the course of their enquiries to collect some evidence on this subject. And their conclusion, which I think still holds good, is worth quoting. After referring to certain classes, whose condition, in the opinion of the Commission, had probably improved, they observe:—

'Beyond these classes, there always has existed, and there still does exist, a low section of the community living a hand to mouth existence, with a low standard of comfort and abnormally sensitive to the effects of inferior harvests and calamities of season. This section is very large and includes the great class of day labourers and the least skilled of the artisans. So far as we have been able to form a general opinion upon a difficult question from the evidence we have heard and the statistics placed before us, the wages of these people have not risen in the last twenty years in due proportion to the rise in prices of their necessities of life. The experience of the recent famine fails to suggest that this section of the community has shown any larger command of resources or any increased power of resistance. Far from contracting, it seems to be gradually widening, particularly in the more congested districts. Its sensitiveness or liability to succumb, instead of diminishing, is possibly becoming more accentuated, as larger and more powerful forces supervene and make their effects felt where formerly the result was determined by purely local conditions.'

"As regards small cultivators, who, after this class, suffer most from famine, I do not believe they have as yet had time to recover from the terrible effects of recent famines. It should be remembered that the losses of the peasantry during the last two famines in crops and cattle have been estimated at 300 crores of rupees. In Bombay, during the last 12 years, only two years have been free from any expenditure on direct famine relief. The Central Provinces have fared almost as badly. In the United Provinces the present famine comes



[*Mr. Gokhale.*] [27TH MARCH, 1908.]

after only a year's respite to the people, as the year before last was also a year of famine. In Bengal, too, the seasons latterly have not been very favourable. Then over the greater part of the area affected by recent famines, the ravages of plague have been added, and these ravages have meant not only a frightful loss of life, with vast mental anxiety and suffering, but also heavy losses of resources to the poorer classes, whose daily life, wherever the plague rages, is disorganised from four to six months every year. It is true that certain sections of the community—those engaged in textile industries for instance—have recently had a brief spell of prosperity, and the newly awakened enthusiasm for industrial development in the country has also had a beneficial effect. But this, I fear, has not made any difference to the bulk of those who go down the precipice at the first touch of famine—barring probably weavers, mill-hands and other workers in factories, and certain classes of small artisans.

“ My Lord, the high prices which have been ruling in the country for some time past, independently of the present famine, and which have caused acute and widespread suffering, have naturally attracted general attention, and I was glad to hear the Hon'ble Mr. Miller state the other day in reply to a question by my friend Mr. Chitnavis that the Government was considering the advisability of referring the whole question to a Committee for inquiry. I earnestly trust that a strong Committee will be appointed, and that as early as may be practicable; for, apart from the distress which high prices must cause to those whose incomes do not rise with the rise in prices, the situation suggests certain disquieting considerations, which require a close and careful examination. It seems to me, my Lord, that the phenomenally heavy coinage of new rupees during the last few years by the Government has something to do with this general rise in prices. Really speaking, the artificial appreciation of the rupee by the currency legislation of the Government should have brought about, after things had time to adjust themselves on the new basis, a general fall in prices in this country. In the first few years after the closing of the mints to the free coinage of silver, this tendency was counteracted by a succession of famines and scarcities, and probably in a smaller measure by hoarded rupees having come into circulation. Latterly the general rise, which has taken place in the gold prices of commodities all over the world, has, no doubt, helped to raise prices in India. But this can account for only a part of the rise that has taken place in this country, and we must look for other causes to explain fully the extraordinary phenomenon we have been witnessing for some time past. I think some light is thrown on the problem by an examination of our coinage statistics. The following figures give the annual

[27TH MARCH, 1908.]

[Mr. Gokhale.]

average of rupees coined, *minus* old rupees recoined by the Government of India, for each decade from 1834 to 1893, when the mints were closed to the free coinage of silver, and for the years following the passing of the Act of 1899, when coinage operations on a large scale were again resumed. The period from 1894 to 1899 is omitted, because during the first three years of that period no new rupees were coined at all, and during the next three a very small number—only about two crores in all—was coined.

Period (annual average for).	Crores.
1835—44	2.2
1845—54	2.4
1855—64	8.2
1865—74	4.8
1875—84	6
1885—93	8.3
1900—04	8.3
1905—07	20.7

“I have not been able to obtain the figures of rupees recoined during the last period, *i.e.*, from 1905 to 1907. I do not think, however, that these figures have been large and the deduction to be made on their account from the average will not, I believe, be substantial.

“Prior to 1893, the melting back of rupees into silver by those who needed silver prevailed on a large scale in the country, and it has been estimated that about 3 crores of rupees must have been so melted annually. Since the currency legislation of 1893, this melting has had to cease, owing to the great difference between the token value and the intrinsic value of the rupee. The stock of rupees in existence in India before 1898 was estimated by Mr. Harrison, the expert, at 130 crores. During the last ten years, the Government has made a net addition to this stock of over 100 crores. It seems to me that such a sudden inflation of the country's currency is bound to result in a general rise of prices. It may be said that in view of the great expansion of trade during the last few years and of the increased industrial activity of the country, such augmentation of the currency was necessary. A reference to trade returns, however, does not support this view. During the 20 years preceding the closing of the mints, our exports of merchandise advanced from 54 crores to 106 crores, *i.e.*, doubled themselves, and yet the average annual coinage only advanced, as shown above, from 6 crores to 8.3 crores during that time. Again, from 1894 to 1904 the exports rose from 106 crores to 157 crores, but the annual average coinage for the five years ending 1904 was just the same as that for the eight years ending

1893, *vis.*, 8·3 crores. It is therefore difficult to see why the average should have suddenly gone up from 8·3 crores to 20·7 crores during the last three years. What is probably happening is this. The rupees issued by the Government in response to the demands of trade go into the interior and spread themselves among those from whom purchases are made. But owing to various circumstances they do not flow back quickly to centres of trade or to banks, and thus new rupees have to be obtained for transactions for which old rupees might have sufficed. Meanwhile, the melting back of rupees into silver having ceased, every issue becomes a net addition to the volume of the currency. If this analysis of the situation is correct, it suggests a grave problem, for it means that prices will tend to rise still further. One effect of these high prices, due to a heavy augmentation of the currency, will be to discourage exports and to encourage imports. Another effect will be that whatever gold there is in general circulation in the country—I understand that it is about 12 millions—will be drained from the country. A third effect will be that the cost of production will rise owing to a rise in the cost of living and this will place indigenous industries at a disadvantage in their competition with foreign products. Whether the foundations of the currency system will be involved in the general disturbance that will thus be caused, it is difficult to say. But it is not improbable that an economic crisis, causing great suffering to large numbers of people, may arise, necessitating urgent remedial action at the hands of the State.

“The Hon’ble Member gives an interesting table in his statement to compare the incidence of the salt-duty in this country with what it is in some European countries. Now in this matter of the salt-tax, the people of this country will always remember with feelings of gratitude the Hon’ble Member’s tenure of office as Finance Minister, for he has given us two successive reductions of the salt-tax, which is more than any of his predecessors ever did. But, though his hand has given us the relief, his head, if he will permit me to say so, seems still to be under the influence of orthodox official ideas; and in the table compiled by him I detect a lingering feeling of regret that the Government should have sacrificed so much revenue to lower a duty which after all did not press heavily on the people! Now, in the first place, it is necessary to remember that our complaint about the burdensome nature of the salt-tax was with reference to the old level of the duty and not its present level. Secondly, before the Hon’ble Member’s comparison can pass muster, it is necessary that he should give us separately the rates of the excise-duty and the import-duty on salt in those countries which he mentions; for when a country has a strongly protectionist fiscal system, heavy import-duties may exist side by side with light

# FINANCIAL STATEMENT.

171

[27TH MARCH, 1908.]

[Mr. Gokhale.]

excise-duties. And, thirdly, to gauge correctly the comparative pressure of a tax in different countries, we must take into account not merely the amount of the tax paid per head in each country, but also the ratio of that amount to the average income per head. So judged, the salt-tax will be found even today to press more heavily on the people of India than any other people, except those of Italy, as the following table will show. In this table I have taken the figures of average income per head for the five European countries mentioned by the Hon'ble Member from Muhlhall's Dictionary of Statistics. For India I have taken Lord Curzon's figure, though it is clearly an over-estimate :

Country.	Annual income per head.	Salt-duty per head in terms of a day's income.
	£	£
France . . .	25·7	$\frac{1}{2}$ day's income.
Germany . . .	18·7	1 day's „
Italy . . .	12	4 days' „
Austria . . .	16·3	1 $\frac{1}{2}$ days' „
Netherlands . . .	26	$\frac{1}{2}$ day's „
India . . .	2	2 days' „

“ Since the Hon'ble Member is in a mood to appreciate comparisons between India and European countries, I venture to present to him another table, and I respectfully trust that he will find it not only interesting, but also instructive ! It is a table giving the State expenditure on education in the five countries selected by the Hon'ble Member for comparison and in India :

Country.	State expenditure on education per head.
	s. d.
France . . .	5 4
Germany . . .	4 0
Italy . . .	1 8
Austria . . .	2 4
Netherlands . . .	4 3
India . . .	0 $\frac{1}{2}$

“ My Lord, I am glad that the accounts of the Local Boards have at last been separated from those of the Government in the Financial Statement. I.

## FINANCIAL STATEMENT.

[Mr. Gokhale.]

[27TH MARCH, 1908.]

wish the Hon'ble Member had at the same time carried further his reform of last year of dealing with Railway and Irrigation figures. He admits the anomaly of treating the two sets of figures differently. He admits also that it would be desirable to deduct the amount of interest from these figures from both revenue and expenditure sides. But he fights shy of a large minus entry which would result from the adoption of this course, though there are minus entries in several other places in the Financial Statement. Well, I can only hope that some future Financial Member will take a different view of the matter. Strictly speaking, it is not only Railways and Irrigation, but also Post, Telegraphs and Mint, that is, all our commercial and *quasi*-commercial services, that must be taken net, if an erroneous idea of our real revenue and expenditure is to be avoided. Also Assignments, Compensations, Refunds and Drawbacks must be deducted from the revenue of the major heads, and advances to cultivators and cost of manufacture in connection with opium must be deducted from the so-called Opium revenue. And on the expenditure side the Interest on Ordinary Debt must be taken net. I venture to think that if our accounts are presented in this manner, they will convey a far more correct idea of our real revenue and expenditure than is done at present. Thus re-arranged, the figures of the budget for the coming year will appear as follows :—

*Revenue* (in millions sterling).

Major Heads . . . . .	45.98
Commercial and <i>quasi</i> -commercial services . . . . .	3.29
Departmental Receipts (Civil, Miscellaneous, Public Works other than Railways and Irrigation, and Military) . . . . .	2.92
<b>TOTAL</b> . . . . .	<b>52.19</b>

*Expenditure* (in millions sterling).

Charges for collection of revenue . . . . .	6.04
Interest . . . . .	.72
Salaries and expenses of Civil Departments . . . . .	14.04
Miscellaneous Civil charges . . . . .	4.62
Famine Relief and Insurance . . . . .	1.53
Other Public Works . . . . .	4.45
Military charges . . . . .	20.75
	<b>52.15</b>
<i>Deduct</i> portion of Provincial expenditure defrayed from Provincial balances . . . . .	<b>1.53</b>
<b>TOTAL</b> . . . . .	<b>51.62</b>
<b>Surplus</b> . . . . .	<b>.57</b>

[27TH MARCH, 1908.]

[Mr. Gokhale.]

"Of course I recognise the difficulty of making radical alterations in old and long established forms, but I would earnestly urge the Hon'ble Member to see if he cannot add another table to the Financial Statement on the lines suggested above. It will certainly serve a useful purpose, for it will enable everyone, who turns to it, to see that our real revenue is only 52 millions sterling and not 73 millions!

"My Lord, I welcome with sincere satisfaction the grant of 30 lakhs of rupees which the Hon'ble Member places at the disposal of the Local Governments during the coming year for assisting municipal bodies in undertaking works of sanitary improvement. The Hon'ble Member promises to make the grant an annual one, and considering the great importance of the principle which underlies it, I am sure the country will warmly appreciate the fact that a beginning in this direction has been made, in a year when the difficulties caused by famine might easily have dissuaded the Hon'ble Member from undertaking a new expenditure. Thirty lakhs a year is no doubt a small sum, compared with the vastness of the object to which it is to be applied, but now that the principle has been recognised and a beginning made, I am not without hope that the amount may be increased when the present famine conditions pass away and normal times return. Even as it stands, the grant marks a substantial improvement on the existing situation, as may be seen from the following figures which I have been able to obtain through the courtesy of the Hon'ble Sir Harvey Adamson. These figures show the amounts contributed by the several Provincial Governments out of Provincial revenues as grants-in-aid to Municipalities towards capital outlay on drainage and water works during the last five years, i.e., from 1902-1903 to 1906-907 :—

Province.	Total amount in rupees in five years.
Madras . . . . .	6,47,000 (exclusive of 3
Bombay . . . . .	Nil. lakhs given to
Bengal . . . . .	1,05,400 the city of
United Provinces . . . . .	5,68,235 Madras).
Punjab . . . . .	2,35,000
Burma . . . . .	1,58,000
Eastern Bengal and Assam . . . . .	14,000
Central Provinces . . . . .	41,000
North-West Frontier Province . . . . .	Nil.
<b>Total for all the Provinces in five years</b>	<b>17,68,635</b>

"This gives us an annual average of 3½ lakhs a year for the whole country, and contrasted with it the Hon'ble Member's 30 lakhs a year is

almost a liberal provision ! It may be noted that during these same five years, while the Government contributed a mere pittance of 17½ lakhs towards the sanitation of our towns, which are being decimated by annual visitations of the plague. His Excellency the Commander-in-Chief was able to obtain for military charges a sum of about 27 crores above the level of the military expenditure of 1901-1902; and nearly 60 crores were spent as capital outlay on Railways, of which one-third, or over 19 crores, was found out of current revenues. My Lord, this treatment of sanitation, as though the Government had no responsibility in regard to it, has hitherto been one of the most melancholy features of the present scheme of financial decentralisation, under which sanitation has been made over to local bodies as their concern, though they have admittedly no resources for undertaking large projects of improvement. The analogy of England is often quoted to justify this arrangement, though on the same analogy our railway construction should have been left to private enterprise; but it is not. My Lord, our mortality statistics are ghastly reading. The officially recorded death-rate has steadily increased during the last 20 years from 28 per thousand to over 36 per thousand. It was about 28 during the first quinquennium, 1886—1890; from that it advanced to nearly 30 during the second quinquennium, 1891—1895; from there to 32·5 in the third quinquennium, 1896—1900; and from that to 33·5 in the fourth, 1901—1905. For the year 1905—the last year for which figures are available—it was 36·14, being even higher than for the year 1897, when the country was devastated by one of the greatest famines of the last century. It is significant that during this same period of 20 years, England has succeeded in bringing down her death-rate from 20 to 15·5 per thousand. Again, taking only our urban areas, we find that the rise in the death-rate from 1896—the year immediately preceding the appearance of plague in the country—to 1905 has been from 36·5 to 41·7. Last year His Majesty the King-Emperor was pleased to send a gracious message to the people of this country sympathising with them in their sufferings from plague. Your Excellency too made a most feeling reference to the ravages of plague in the course of your last budget speech. My Lord, may we not hope that the Government will in future show a greater recognition of the claims of sanitation on the resources of the State than it has done in the past, as no real improvement in public health is to be expected, unless vigorous efforts are made throughout the country to push on sanitation. Three years ago I urged in this Council that at least one million sterling a year should be provided by the Government to assist municipal bodies in the construction of drainage and water works. I earnestly trust that the amount will be forthcoming before long. It is really a modest demand, considering the interests involved and considering also the requirements of the situation.

[27TH MARCH, 1908.] . [Mr. Gokhale.] .

"In this connection it is a matter of deep regret to me that I cannot persuade the Hon'ble Member to see the reasonableness of my suggestion as regards the utilisation of our surpluses—at least of a portion of them—for promoting sanitation. I do not propose to repeat today my arguments in favour of such a course, as I have urged them again and again in this Council with perhaps wearying iteration. But there is one misapprehension of the Hon'ble Member about which it is necessary to say a word. He thinks that as a surplus is in the nature of a windfall and entirely uncertain, to make allotments out of it towards sanitary projects would involve wastage, as works may have to be stopped after being undertaken, if one surplus is not followed by another surplus; and he says that this would be unsound finance. I do not, however, see why there need be any stoppage of works or any wastage. My proposal would work as follows:—suppose there is a surplus of 2 millions one year and suppose it is decided to devote it to sanitary improvements. The different Provincial Governments will receive allotments out of it, which they will temporarily hold as part of the Provincial balances. They will have before them a programme of sanitary projects and they will offer assistance out of the allotment to such of them as appear to them to be the most urgent. It should be laid down that no assistance should be offered unless the whole of the money required to meet the liability is there in the balances or can be provided partly out of the allotment and partly out of Provincial revenues. When a second surplus is realised and fresh allotments are received, other projects can be taken up for assistance in the same way. If there is no surplus to allot, no harm is done. These surplus allotments may be in addition to the regular annual grant. I do not see what is there that is unsound in such a course. On the other hand, I cannot help regarding the present practice of devoting surpluses to railway construction—which means investing them as capital—as unjust to the tax-payers and wholly indefensible. What will the Hon'ble Member think of a man who, while his children are sickening and dying, neglects to improve the sanitation of his house and uses whatever money he can spare out of his income for purposes of investment? And yet this is precisely what the Government of India has been doing all these years. Our railways, on which already 400 crores of rupees have been expended, rest on a commercial basis. They are remunerative as a commercial undertaking and they should be constructed only out of borrowings. Surpluses are so much more revenue taken from the people than was necessary for the requirements of the Government. As it is not possible to return a surplus directly to the people, it should be spent in meeting non-recurring expenditure most urgently needed for their welfare. Such expenditure today in this country is expenditure on sanitary improvements. The Hon'ble Member proposes to



[Mr. Gokhale.] [27TH MARCH, 1908.]

devote to Railway construction a sum of  $1\frac{3}{4}$  millions sterling out of cash balances during the coming year. This raises the question whether there should not be a definite limit to cash balances. If in fat years larger cash balances than are really required are to be built up out of current revenues and in lean years they are to be drawn upon for Railway construction, it really means finding money for capital outlay on Railways out of the proceeds of taxation, whether the years be fat or lean. The question was carefully considered by the Government of Lord Northbrook, and the conclusion arrived at was that  $13\frac{1}{2}$  crores should suffice as cash balances. Since then Burma has been added and the normal level of expenditure has also risen considerably. Still cash balances, ranging between 25 and 30 crores, appear to be unnecessarily large and may, I think, be brought down to a lower level.

“My Lord, I think the country has a right to complain that the conclusion of the Anglo-Russian Convention, which has been acclaimed by its authors as a great triumph of diplomacy, has made no difference whatever to the people of India, so far as the weight of military charges is concerned. It is true that certain lapsed grants have not been restored to the military budget this year, but that is owing to the difficulties occasioned by the famine, and moreover they only mean a slight postponement of certain items of expenditure. Two years ago, when I urged a reduction of military expenditure in this Council in view of Russia's collapse in the Russo-Japanese War and the conclusion of the Anglo-Japanese Alliance, Your Lordship observed:—

‘Recent events may at first sight appear to justify much of what the Hon'ble Mr. Gokhale has said. Russia's reverses in the Far East and our alliance with Japan undoubtedly at the present moment minimise the dangers of our Indian frontier; but I am afraid I cannot follow the Hon'ble Mr. Gokhale in his conclusion that these dangers have disappeared for ever. He has told us that the tide of European aggression in China has been rolled back for good, that the power of Russia has been broken and that her prestige in Asia has gone. I am afraid these are mere assumptions which I can hardly accept. I am afraid I feel much more impelled to consider what effect Russian reverses may have on the pride of a high-spirited military race and I wonder in how long or in how short a time she may feel confident of recovering her lost prestige.’

“Well, this time it is an agreement with Russia herself that has been concluded and now at any rate there is no justification for regarding Russian aggression on the North-West Frontier as anything else than a mere remote possibility. But now I fear another ground is being taken, namely, that in view of the unrest prevailing in the country and the tendencies of thought and utterance among a section of the people, it is not desirable to touch the military ex-

[27TH MARCH, 1908.]

[Mr. Gokhale.]

penditure of India. My Lord, all I can say is that such a view of the situation is most unjust to the vast bulk of the tax-paying community in the country. No doubt it is the case all over the world that when military charges have been once allowed to grow, it is extremely hard to get them reduced again. In India, in addition to this general difficulty, there are special difficulties connected with the exceptional nature of the situation. But the general satisfaction that will result from a reduction of our overgrown military expenditure is an important consideration. On the other hand, the retention of the present level of charges, in spite of the Anglo-Russian Agreement, will probably tend to strengthen those very tendencies which are alleged to stand in the way of a diminution of the country's burdens.

"There is one more point that I would like to urge about our financial administration before I close. I think it is necessary that a larger portion of our revenues than at present should be devoted to objects on which the moral and material well-being of the mass of our people ultimately depends. The expenditure on the Army, the Police and similar services may be necessary, but it is a necessary evil, and, consistently with the maintenance of a proper standard of efficiency, it must be kept down as far as possible. On the other hand, no State, especially in these days, can expend too much on an object like education. And, here, my Lord, I regret to say that the Government is not doing its duty by the people of India. Everywhere else throughout the world the State now accepts it as a sacred obligation resting on it to provide for the free and compulsory education of its children. The Gaekwar of Baroda has recently adopted measures to make this provision for his subjects: What every civilized Government provides for its people, what the Gaekwar is providing in his State, the Government of India must surely provide for the people of British territories. There is no escape from so obvious a duty, and every day's delay is a wrong to the people. We sometimes hear it said that it will be impossible to find money for so vast an undertaking. My Lord, it is not true. The money is there for whatever developments may take place immediately, and it can be found without difficulty as we go along if the burden is distributed over a number of years and the task taken in hand in a resolute spirit. The Hon'ble Mr. Baker makes an interesting observation in one of the paragraphs dealing with Famine, which throws a flood of light on this point: He says that the loss to the Exchequer of the Government of India—apart from the losses of the Provincial Governments—from this year's famine has been estimated at 3 crores during the year about to close and at  $3\frac{1}{4}$  crores in the coming year. As there has been a small surplus in the accounts

of the Government of India this year and as the Hon'ble Member has budgeted for another surplus for the coming year, his estimate should carry conviction to the most sceptical mind. My Lord, I repeat the money is there or can be found without difficulty. Only the will has to be there and then we shall not be found merely discussing the difficulties of the problem. Then there is the question of technical and industrial education. Half a million sterling for initial equipment and about five lakhs a year for maintenance charges should give the country an Institute of Technology, almost fit to be included among the great institutions of the world. And the expenditure will return tenfold to the State not only in the advance of technical and industrial education in the country, but also in the appreciation and enthusiasm of the people. I have already spoken of the needs of sanitation. Lastly, there is the vast problem of agricultural indebtedness. Here, except perhaps for initial experiments, the money for any scheme of relief that may be adopted—if one ever is adopted—will have to be out of loan funds, and there is ample margin for borrowing for such a purpose, as our Ordinary Debt now stands at only about 37 millions sterling.

"My Lord, we are passing through very anxious times. How we shall emerge from this crisis, when it is over, is a question that is occupying all earnest minds in the country today, almost to the exclusion of any other question. There is much in our present situation that is naturally galling to proud and sensitive spirits, and young men, fresh from their books, are coming forward on every side to ask why things need be as they are. As yet they have not permitted themselves to imagine that their interests do not lie on the side of order. But sooner or later, mere order is bound to appear irksome to those who zealously cultivate the belief that there is no chance of better days for their country as long as existing arrangements continue. They will no doubt discover before long the limitations of their position. They may even come to recognise that life is not always like writing on a clean slate, and that in the peculiar circumstances of India they must range themselves, in spite of the humiliations of the situation, in their own best interests, on the side of order, for without its unquestioned continuance no real progress for their country is possible. My Lord, many things have happened during the last three years which have had the effect of swelling the ranks of these men. Even the feeling of love and reverence, with which, as a great teacher, the philosopher-statesman at the India Office was regarded by successive generations of educated classes and which was really an asset of value to British rule when he took charge, has helped to add to the difficulties of the situation. That feeling has given way to a sense of irritation and disappointment, because

[27TH MARCH, 1908.] [Mr. Gokhale, Tikka Sahib of Nabha.]

Mr. Morley has on occasions used language which has wounded and has sanctioned measures which have bewildered and amazed. And though those among us, who have not made sufficient allowances for Mr. Morley's difficulties, will in the end regret the harsh things they have said of him, he certainly for the time has lost the power of arresting the rapid decline of my countrymen's faith in England's mission in this country. My Lord, the Government will no doubt put down—indeed it must put down—all disorder with a firm hand. But what the situation really requires is not the policeman's baton or the soldier's bayonet, but the statesman's insight, wisdom and courage. The people must be enabled to feel that *their* interests are, if not the only consideration, at any rate the main consideration that weighs with the Government, and this can only be brought about by a radical change in the spirit of the administration. Whatever reforms are taken in hand, let them be dealt with frankly and generously. And, my Lord, let not the words 'too late' be written on every one of them. For while the Government stands considering—hesitating, advancing, receding—debating within itself 'to grant or not to grant, that is the question'—opportunities rush past it which can never be recalled. And the moving finger writes and having writ, moves on!"

The Hon'ble TIKKA SAHIB RIPUDAMAN SINGH OF NABHA said :—"My Lord, the dominant feature of the Financial Statement which was presented to the Council last week, is the famine, and in view of the present situation no one can have expected that the Hon'ble Mr. Baker would again this year announce those large surpluses which it has been his good fortune to report in each of the last three years. The revised estimates for the closing year show a falling off of surplus to 35 lakhs against 116 lakhs, being a net decrease of 81 lakhs, or less than one-third of that which was budgeted last year. Yet the result gives striking evidence of the prosperity of the country and the wise handling of its resources. My Hon'ble Colleague the Finance Member rather takes an optimistic view of the present situation when he estimates a surplus of 86 lakhs for the next year, in the hope that the monsoon will then be normal in character. However, let us hope that his expectations will be fulfilled. The gratifying feature of the present budget is the grant of 12, 30, and 150 lakhs for Police reform, improvement of the public health, and Irrigation works, respectively.

"The failure of rain has again resulted in widespread famine. The United Provinces of Agra and Oudh are more severely affected than other provinces. An effort should be made to prevent famine as far as possible. In a country like India, which has been bountifully supplied with an inexhaustible store of river water, the ruinous effects of failure of rains upon the agricultural condition of the

country may be averted by utilising and economising the waters of the great rivers for irrigation purposes. The Government, who well realise this truth, are already turning to advantage the waters of some rivers in different parts of the country, which feel for this reason less acutely the advent of famine caused by drought. But there remains still much more to be done in the direction of the development of irrigation. The more this question receives the attention of the Government, the better for the ruled as well as for the rulers. We are all aware that our irrigation works are more lucrative and profitable than our railways; our well managed and wisely conducted canals returning interest at the rate of 9 per cent. on the capital outlay, while railways pay us interest only at the rate of 5 per cent. The Hon'ble the Finance Member in paragraph 77 of the Budget Statement remarks that 'the steady growth of the relative burden of working expenses in the last few years is a somewhat disquieting feature. A time comes in the history of most railways when the receipts from new traffic hardly cover the cost of carrying it; and it is a matter of common remark that this stage has been reached in not a few railways in the United Kingdom. Hitherto, however, it has not been supposed that we were within measurable distance of it in India. Various reasons have been suggested to account for it, such as the increased cost of coal and the higher salaries which are now generally commanded by railway establishments.' Therefore, at least in view of these facts, instead of spending a greater portion of the surpluses on railways, it should now be applied to a large extent to the construction of irrigation works, which besides being more profitable from a business standpoint, have a stronger claim on our surpluses, inasmuch as they would contribute to the development of the resources of the country, minimising the misery and distress in the event of failure of rains, and ameliorating the financial condition of the agriculturists, in favour of whom Your Excellency generously gave expression in your speech at the last year's budget debate in the following words:— 'He (the tiller of the soil) is the man we must strive to help. He is to a great extent the backbone of the population of India. On his welfare depends much of the happiness and the contentment of the people.' I know that railways play a prominent part in alleviating the severity of famine by affording easy and cheap means of locomotion in addition to the expansion of trade. But I may be allowed to say that much has been already achieved in the extension of railways, and now we have already a sufficient network of them in the country.

"I am not well acquainted with the results of the activities of the Forest Department, but I think it is obvious that some more tree-planting could be

[27TH MARCH, 1908] [Tikka Sahib of Nabha.]

effected in India. If enquiries were made, I believe there could be found waste tracts and hill slopes in various parts of the country which might be made to bear rain-attracting trees. Since the introduction of railways into India and also on account of the gradually increasing population of the country, and the wants and restless activities of large communities, there has necessarily been great destruction not only of isolated trees in village tracts, but of whole forests, and I am not aware that re-afforestation has kept pace with destruction. Should the Government feel itself unequal to the task of increasing the activities of the Forest Department, much could be done by encouraging agriculturists to plant trees as boundaries or when opening new wells, or on spaces which are not deemed suitable for other forms of cultivation. The advantages of such a course could be easily explained to them and no serious objection would be made. The attention of Native States, such as those in Rajputana, which are the constant theatres of devastating drought, might also be called to this matter, and I feel sure they would gladly respond. Several parts of Rajputana are now unfortunately in an arid condition though they were in former ages irrigated by the copious waters of the *Saraswati* from the Himalaya Mountains. That the rainfall and the temperature of a country are favourably affected by trees is a matter so commonplace and so universally admitted, that I need not dwell on it here.

“Another important measure would be to encourage emigration of the population of overcrowded provinces to more thinly populated areas, where vast tracts of waste land might be reclaimed by constructing irrigation canals. The Government have tried this experiment in the Punjab; and the existence of the flourishing district of Lyallpur affords tangible evidence of the boon conferred on the people of that province. But this boon must be extended to other provinces also, especially to the United Provinces, and Rajputana, which suffer grievously in famine times. The peasantry of these provinces should be afforded facilities and induced to emigrate.

“The people of India who mostly depend for their livelihood on the industry of agriculture may likewise be supplied with other means of sustenance, so that the high percentage which now exists of the agricultural population may be decreased by the employment of those from among them who may be badly circumstanced, or who may happen to have gloomy prospects of making their living by means of this industry. Other resources of India than the agricultural are not small. Its mineral wealth is still in embryo. Its seas could be made a source of affluence to the Indian populace by the development of fisheries. If the country were equipped with an ample number of profitable manufactures, they would ameliorate the condition of the indigent labouring classes. It is therefore

most desirable that Government should give encouragement to the opening of manufactures and the development of industries. Technical training may be given along with scholastic education, which in present circumstances is turning out so many unemployed and discontented people. An idle man is prone to mischief. Supply him with work, and the mischief will be gone.

"I cannot help thinking; in spite of all that the Hon'ble Mr. Miller said the other day in reply to a question put by the Hon'ble Mr. Chitnavis, that it seems a pity that grain should be allowed to be exported out of India when the children of the soil can hardly buy enough thereof to keep body and soul together. Your Excellency, in your speech at the Famine Fund meeting, said the other day :—

'It is quite true that the present famine cannot be compared to the last, two great famines, either in respect to its extent or severity, but it has *one* distinguishing feature in which it markedly differs from its predecessors, and to which I should wish to draw the attention of the meeting. *That feature is the very high range of the prices of food-grains.* They are much higher than the great famine of 1900, and distinctly higher than in 1897, and though the labouring and artisan classes have to some extent been saved from distress by the gradual increased demand for labour in the last few years, and though cultivators in the fortunate position of having a surplus to sell, have benefited by the rise in prices, there is on the other hand an actually larger number than in former years of respectable poor people, whom custom and tradition forbid to apply for Government relief, to whom these prohibitive prices mean the most terrible distress and suffering.'

"It would certainly be conducive to the general well-being if in times of scarcity some restrictions were placed on the free exportation of grain. The Hon'ble Mr. Miller's apprehensions on this score seem to me to be not quite well-founded.

"Your Lordship last year dwelt with kindly feelings on the ravages of the plague in India. While in other parts of India the plague is generally confined to large cities, in my province it does not leave even the villages free. The reason is that a Punjabi village is a conglomeration of dirty huts opening on lanes in which all sorts of rubbish are freely thrown. Sun and air find no access to these huts ; and as long as Punjab villages remain in their present state there is little hope of eradicating the plague from them. It would be an interesting experiment if some model villages were built formed of detached hamlets, open to sun and air, and people were allowed to acquire them on the payment of small sums by annual instalments. The old villages could then be demolished and their sites made village commons. If some such thing were done, it would

[27TH MARCH, 1908.] [Tikka Sahib of Nabha.]

in time conduce to the general well-being of the village community. Though inoculation and evacuation of houses may all be good in themselves, yet I am afraid we cannot get rid of this dire scourge until we improve the standard of living of the people.

"It is a matter of sincere pleasure that the Government has at last realised the importance of attending to the public health. Hitherto very little has been done in this direction. The decision of the Government to allot a sum of 30 lakhs per annum for expenditure on sanitary improvements with special reference to the prevention of plague is to be heartily welcomed. Out of this sum my province, the Punjab, gets four lakhs, for which I am most grateful. Although this grant is all too small considering the requirements of the country, yet it is a welcome move in the right direction. The Hon'ble the Finance Member himself admits this fact when he says it is to be regretted that it has not been found possible to make this grant larger. The Hon'ble the Finance Member in paragraph 65 of the Budget Statement says:—

'Apart from expenditure of this nature, which will not, we trust, be of a permanent character, there is room for almost unlimited outlay of the most beneficial description, in reforming the sanitary arrangements of the larger towns.'

"Our surpluses should in future therefore be advantageously applied to such useful purposes.

"A few words about our police may perhaps not be considered out of place. Our police, especially in its lower ranks, is not what it ought to be. Perhaps I am speaking the plain truth when I say that in this country innocent people are more afraid of the police than even of the criminal classes, because the latter know that the members of the force will hardly be able to reach them. Instead of being a source of comfort to those who stand in need of their assistance, they are a sort of terror to the respectable people, and this is due to the fact that they are generally recruited from the lowest grades of the Indian people. As regards their incapacity for work, two recent instances would suffice. The culprits who made such a cowardly and mean attack in December last on the life of Mr. Allen (who has since then happily recovered from his injuries) and those who burnt a certain Sikh Gurdwara in the Punjab not many months ago, are still at large, and no trace of them is to be found. Every effort should be made to improve our police force, because it is they who mostly come in touch with the people. The recommendations of the Police Commission should be given full effect to, especially with reference to recruitment and training. No person should be recruited unless he is of good moral



[Tikka Sahib of Nabha.] [27TH MARCH, 1908.]

character and social position, and the recruits should be specially taught how to deal with the general public. Above all, what is most essential is, that very strict watch should be kept on them, and their faults, should never be overlooked, but, on the contrary, promptly and strictly punished. This is a matter in which the hearty co-operation of senior police-officers is required, as otherwise there will be no hope of any real reform. I hope that the proposed expenditure on police will be applied so that it will filter down to the lowest grades and make the Police Department a desirable one to enter, and that it shall no longer be deemed, as it so often is now, a *ganda mahakama* or shabby department.

"I may be permitted to make a few passing remarks about the Gurdwara arson case to which I have just alluded. In that case all the accused were discharged by the trying Magistrate, but there are one or two points in his judgment dated the 5th December 1907, which deserve attention. He says:—

'I may state here that my reason for not trying the case myself was, that I had watched the police proceedings from the beginning and had consequently formed opinions as to the *bona fides* of the prosecution witnesses. I transferred the case to my own Court however on the 2nd November 1907 for reasons *which need not be specified.*' \* \* \*

The investigation has proved to me conclusively that the outrage was *not* the result of local religious antipathies *but* merely an attempt on the part of some of the Muhammadans of Udhawal to induce the Hindus to come back to the village and look after their property.'

"I have taken these extracts of the judgment from the *Khalsa Advocate* dated the 11th January 1908, a weekly published in Amritsar. Now as regards the first point, the Magistrate ought to have given his reason for transferring the case to his own Court, which he says 'need not be specified.' But the question arises why? He admits himself that before hearing the case, nay even before recording evidence, he had formed his own opinions regarding it, and in these circumstances what else could have been expected from him than what subsequently happened? On the second point I need not say much, because the absurdity of the Magistrate's argument is self-evident. What an extraordinary theory that the outrage was not the result of religious antipathies—a theory which it was the duty of the Magistrate to verify by the facts of the case. A supposition could not and should not have found a place in a judicial record.' The Government encourages the people at the time of plague to evacuate their houses, but in Udhawal, when the poor Hindus went forth, our Muhammadan brethren amused themselves, as the Magistrate practically tells us, by burning their Dharmasala, in order to induce the Hindus to come back to their houses and look after their property! I sincerely

[27TH MARCH, 1907.] [Tikka Sahib of Nabha.]

trust that the Government will not allow this matter to rest here, and that we shall hear before long of the arrest and exemplary punishment of the real culprits in that case.

"My Lord, I cannot let this opportunity pass without drawing your serious attention to the condition of the Indians in the Transvaal and other British colonies. Every one knows to what humiliation they were lately subjected in the Transvaal, where they were treated as common criminals. The indignities imposed upon them there were taken to heart by every Indian. No doubt the indomitable will of a few Indians in the Transvaal, never to submit to humiliating ordinances, achieved a great moral victory, but that was only transitory. During the late Boer War Indian troops were sent from here to assist the British, and now when peace has been restored, the poor Indians are not treated like human beings, but as lower animals. It is freely said in speeches and writings that India is the most brilliant jewel in the British Crown, and yet Indians are treated in this manner in other parts of the world which are under British protection. The Proclamation of the late Queen Victoria to the Princes, Chiefs and People of India says:—'We hold ourselves bound to the natives of our Indian territories by the same obligations of duty which bind us to all our other subjects; and those obligations, by the blessing of Almighty God, we shall faithfully and conscientiously fulfil.' Not many months ago, the Right Hon'ble Mr. Morley said in Parliament:—'The Indian Asiatic is a man with vivid susceptibilities, with great traditions and a civilization of his own; and we are bound to give him the same respect and sympathy with which we expect to be treated ourselves.' Only the other day I saw a letter from General Gordon to a friend of mine in which he said:—'Government.—There is but one way, and it is eternal truth—get into their skins, try to realise their feelings, that is the true secret of Government.' That is a great political law as well as an ethical law, and I hope that in all that we do it will not be forgotten.

"The treatment to which my countrymen are subjected should not be tolerated. I think it is one of the foremost duties of the British Government to protect the rights of Indians in the British colonies. The concessions lately made to the Indians in the Transvaal are not quite satisfactory. Under the new arrangements the registration system, which is degrading, is still maintained. It is perhaps the irony of fate that India is now so looked down. The colonists who act in the manner complained of, do not seem to remember the fact that when their forefathers were no better than savages, India was in the full glory of her ancient civilization. If free governing colonies can do as

they like, we must also be allowed to stand up for our rights, in whatever portion of the globe they are assailed; and I think our Indian army will be found adequate to protect them here as elsewhere.

"To associate more and more the children of the soil with the higher administration of the country, both civil and military, is the pressing problem of the day. Many young men of the Indian aristocracy cannot proceed to foreign countries for education on account of caste prejudices and other difficulties; and others who are willing to go are prevented from doing so by their parents, who are unfortunately so much attached to them, that they would not let them go on foreign travel, however much it might be conducive to their advantage. So I beg to suggest that facilities should be afforded to young noblemen to qualify themselves in this country for Indian service in its various forms, because they are naturally more fitted to serve in higher and responsible offices than the offspring of the lower classes. Examination qualifications cannot be considered as the *only* test of fitness for authority. It is also nobility of character and birth and a sympathetic attitude towards the people, which make a popular and beneficent ruler, and only he who possesses such qualities can command the respect and confidence of the public at large. Let us hope that these aspirations will not be frustrated, but will be fulfilled and realised before long.

"A sum of twenty-seven lakhs of rupees has been set aside for expenditure on education during the ensuing year. It is to be hoped that this will be suitably applied. Primary education is an admitted necessity for the country. I have read with much pleasure Your Excellency's speech in reply to the address of the orthodox Hindu community, in which you stated that you saw no objection to the institution of denominational hostels. I am strongly of opinion that the religions of India ought to be maintained, and this can only be done by a system of denominational education. I am of opinion that even the Chiefs' College at Lahore is unfit for the education of Sikhs of position. In this connection I would beg to point to the deplorable ignorance of the religious systems of the country generally possessed by English officials in India.

"The Educational Report of the Punjab of last year is of more than usual interest. We cannot sufficiently thank the Hon'ble Sir Charles Rivaz for the interest he took in the spread of education in the Punjab; and it was due to his enlightened policy that money was liberally spent on education in all grades, and that private enterprise was also treated with generosity. During the period of his term of office the expenditure on public instruction rose from 32 to 52 lakhs of rupees,

[27TH MARCH, 1908.] [Tikka Sahib of Nabha.]

Nine hundred new Primary schools for boys and two hundred schools for girls were opened. Forty thousand more boys and seven thousand more girls are now the recipients of elementary education than was the case in 1902.

"As far as I can see, these Primary schools are opened mostly for the benefit of the agricultural population, but I am afraid that the agricultural classes are not fully benefited by them. With a little more expense and forethought it might be possible to adapt these schools to the requirements of the villagers. As a first step the scope of the work of these schools should be defined; and they should be raised to such a position as to enable them to teach something useful to the agriculturists. In the first place, an attempt should be made to instruct the pupils in reading, writing and arithmetic in their own language, not as it is done now in Urdu, which is a foreign language. The result is that after three or four years' study they hardly understand the meaning of the words they read or repeat. Education to be of any real advantage must be given first in the easiest language to learn; and could there be any language easier to learn than one's mother-tongue? So primary education in the Punjab ought to be given through the Punjabi only, and in the characters peculiar to that language. When the Government has recognised a knowledge of Punjabi as a desideratum for the British military and civil officers, it is very strange indeed that the Educational Department should have forced on the poor Punjabis the necessity to forget their own vernacular for the camp language of the Mughal Emperors which is not a general household language in India. Then, again, books should be specially compiled containing useful information in simple and colloquial language about agriculture, sanitation, manure, and cattle. The schoolmaster should be a man who knows something about cattle diseases and practical farming, so that he may be able to attract the attention of the villagers and win their respect by his knowledge of the very subjects which they pride themselves on knowing better than any one else. It would be far better to have fewer schools doing really useful and practical work than to open many lower primary places of instruction which serve no useful purpose.

"The subject of education of Government wards also calls for a few remarks. The present arrangement is not quite satisfactory, and I think that the Government's policy of 'religious neutrality' is responsible to a great extent for it. No doubt this is a very delicate and complicated question, but solve it we must, because on it largely depends the success or failure of the education of Government wards. An education which lacks moral and religious training cannot be considered as complete or of any real advantage. The wards are now taught only what might be useful to them to get employment, a course

[Tikka Sahib of Nabha.] [27TH MARCH, 1908.]

of instruction which is only useful for an office-seeker. They should be first taught the principles of their religion and after that a liberal English education should be given them. The Government should pay special attention to this subject, because in the case of its wards Government fills the place of their natural guardians. I could give instances in which the education of Government wards has totally failed in the past, but I do not wish to do so for obvious reasons.

"My Lord, I must draw your special attention to some of the social evils of this country, which require very careful consideration on the part of the Government. We do not wish the Government to interfere needlessly in the social affairs of the people, but it would be desirable that clear and simple social rules should be framed for the guidance of the people. Education is spreading and opening the minds of Indian women also. What they in their state of ignorance regarded as natural and inevitable, now appears to them unendurable; and many an educated and sensitive girl has to pass years of misery either in widowhood or in the retirement of *Zenanas*, from which she can see no way of escape. The old customs and laws of the country can hardly meet the demands of the new conditions; and it behoves the Government to assist as much as possible in the dissemination of wholesome ideas on the subject.

"I am constrained to bring to the notice of the Council one or two cruel customs of the country:—

"I. A man can go on marrying and deserting as many wives as he likes. The women so deserted cannot marry again, and are often compelled to lead immoral lives. Is it too much to ask that when a woman has been absolutely deserted by her husband, say for five years, she may be allowed to marry again? It would remove a great burden of pain and suffering if long desertions were recognised by law as sufficient to annul marriages.

"II. Frequently parents take money in exchange for their daughters. In other words, they sell their daughters to the highest bidder. The older the man, the higher the price he has to pay for his wife. Is it not a sort of slavery still prevalent in India? The most heartrending sight is one which we not infrequently see, of a young girl of 10 or 12, nay sometimes even of 6 or 8 years, being married to a man 70 or 80 years old. I have given these figures most cautiously, but perhaps still more glaring instances could easily be found. I beg and pray that some sort of preventive law be passed without any further delay to put an end, once for all, to all such practices for the good of the country and its people.

[27TH MARCH, 1908.] [Tikka Sahib of Nabha.]

"The question of intoxicating drugs is one on which I feel bound to say a few words again this year. This question is now before the British Parliament, and I have every reason to hope that our Government will not lag behind when the time for action arrives. In the Punjab, plague has led to an increased habit of drink, and to save the fine Punjab peasantry from the degradation and ruin which follow the habit of drinking, some stringent rules against the free sale of country liquor should be issued.

"Intoxicating drugs are surely a great plague of the world. They are first seductive and afterwards destructive in their effects. Among intoxicants, wine is the worst of all. This evil is spreading all over like wildfire, and retarding our social and moral progress. Some philanthropists are endeavouring to save mankind from falling a prey to this evil, and the Temperance Associations are doing good work, but the greater part still lies with the Government. Until a preventive measure is passed, I am afraid this evil cannot be extirpated from the country. The use of wine in the Army should be strongly discouraged. In order to make soldiers brave and fit for the honest and effectual discharge of their duties, they should be strongly prohibited from indulging in this bad habit. Total abstinence would make the soldiers strong, healthy and courageous.

"Another intoxicant which is still more harmful is tobacco. The history of the Sikhs, who are religiously forbidden the use of tobacco, furnishes a very valuable object lesson in this matter, showing the moral and physical advantages which they possess over their Hindu and Muhammadan brethren. The Sikhs have greater muscular vigour and activity than the other natives of the country. Doctors are also of opinion that tobacco is very injurious, especially to youths under 20 years of age, as it causes great injury to the brain and weakens the digestive system. We see every day young boys, nay even girls, of 6 or 7 years of age, smoking, some of whom perhaps can hardly buy bread to eat. It would be quite a proper thing if the Government, in view of the bad effects produced by the use of tobacco on the rising generation of the country and especially on young students, would make it punishable to sell it to youths under 20 years of age, and also make it punishable for such youths to addict themselves to the vice. In America and some European countries, this matter has received special consideration.

"While congratulating His Excellency the Commander-in-Chief on the workmanlike action of the Zakka Khel expedition, which speaks volumes for the efficiency of our reorganised army, I cannot help expressing the feeling that the Zakka Khels seem not to have been sufficiently punished for their misdeeds

From whatever point of view we look, the settlement does not appear to be quite satisfactory. Our forces could hardly have returned from the expedition, when transfrontier ruffians looted some shop-keepers and bazar people in Peshawar; and this clearly shows that the expedition had not a sufficiently deterrent effect. In the terms of settlement there is nothing to be found about those unfortunate victims who were murdered and robbed by the raiders. The cash which they took away has not been recovered and returned to the owners, nor has the cost of the expedition been recovered from the offending tribes or their allowances stopped. Nor have their leaders been arrested and detained as hostages. We are told that the leading offenders in the recent raids will be duly punished by the tribesmen themselves with the assistance of the Zakka Khels. We all know what the promises of these frontier people mean. The idea of expecting the Zakka Khels to punish their own kith and kin for shooting down a few infidels, a matter which they consider the surest way of gaining Paradise!!! Of course we are not aware of the details of the Government's policy which brought this expedition to a close so suddenly, but I am afraid that a splendid opportunity has been lost to give them a proper lesson. Such occasions afford more fitting opportunities for the training of our troops, than the lifeless annual manoeuvres. Now we are told that there are signs of renewed restlessness among the Mahsuds in Waziristan. If the warlike races of India are encouraged to settle down on our frontiers, perhaps in a few years' time we shall hear no more of these frontier raids.

"I do hope that the formation of a large reserve force will receive that attention from Your Excellency which it deserves. While in other parts of the Empire under the British protection measures are contemplated to make it compulsory for every man to have a rifle, it would not be too much to ask for a reserve of one lakh of men, for the protection of the Indian Empire here, as well as the rights of its citizens in other countries.

"My Lord, I should be failing in my duty if I did not draw your attention to the relations between Indians and Europeans which, are at the present not at all satisfactory. A great deal depends sometimes on the commission or omission of little things. Men of birth and position, men who are received by His Excellency the Viceroy, are often kept waiting under trees or in the verandahs of officials. The calls of Indian gentlemen are not returned; and yet if, to preserve his self-respect, an Indian ceases to call on English officials, he at once becomes a target of suspicion, and is never given a chance of explanation. Indian gentlemen who have to travel by rail are often subjected to rudeness and great difficulties, nay even sometimes bodily expelled from railway carriages.

[27TH MARCH, 1908.] [Tikka Sahib of Nabha.]

"It has been said that this idea of equality of treatment is the fruit of English education, but if I may be permitted, I can safely say that to an Indian his *izzat* has been from time immemorial dearer than life itself. There is no doubt that title-seekers and placemen even now indulge in insincere flatteries. But it can be safely said that the true well-wishers of the Government are those who speak the truth plainly.

"Then, again, European officers do not often show due courtesy and politeness either in writing or in conversation to Indian gentlemen. Their ignorance of Indian manners, customs, religions, language and etiquette, which they do not trouble to study, and consider not worth their while to learn, is a growing evil, and goes a long way to make their relations with the people of the country strained. Some Europeans cannot even distinguish an Indian lady's name from a gentleman's. There are also other reasons for the strained relations which now unfortunately exist between the Europeans and Indians. Not many years ago the people had a strong faith in British justice, but some recent events are now talked about everywhere, and people draw their own inferences from them. I shall speak only about recent events in my province. I refer to two cases, which are known as the 'Rawalpindi rape case' and the 'Lahore shooting case.' In the former a European Station officer and his Muhammadan assistant, who were charged with dishonouring a solitary Hindu woman, were acquitted by a European jury. In the second case a European master kicks his native servant and follows him out of the house with a loaded revolver which goes off, the servant is hit in the back and dies after a few hours. A European jury find the shooting to be accidental, and the accused gets only six months' imprisonment. There is a popular feeling that the acquittal in the first case was not according to the evidence, and that the sentence on the accused in the second case was too lenient. Suppose the victims in both these cases had been Europeans and the assailants natives, what would have been the result? Yet, my Lord, there is no reason to despair, and I am speaking rather *feelingly* when I assure you, that the Indian heart is not at all *cold*. Treat Indians kindly and sympathetically, encourage them and cheer them with friendly words, and you will find them ready to lay down even their lives for you.

"I have dwelt on this aspect of the question at some length, and my plea for doing so is, that I consider it of supreme importance for the well-being both of the Government and the country. I cannot do better than conclude my remarks on this subject, by giving a quotation from the speech of His Royal Highness the Prince of Wales. On his return to England after his Indian tour, in the course of a speech at the Guildhall, he said:—'I cannot help thinking from all I have



[Tikka Sahib of Nabha.] [27TH MARCH, 1908.]

heard and seen, that the task of governing India will be made the easier, if we on our part infuse into it a wider element of *sympathy*. I will venture to predict that to such sympathy there will be an ever-abundant and genuine *response*.'

"The Right Hon'ble Mr. Morley said last year in the course of his Indian budget speech in Parliament as follows:—

'I have examined a great number of responsible communications from officers of the Indian Government. What do they all come to? In their view it is a mistake even now, in the hour of stress and anxiety, not to look at the situation rather largely. *They all admit that there is a fall in the influence of European officers over the population, and an estrangement or refrigeration between the officers and the people; that there is less sympathy between the Government and the people; and that for the last few years the doctrine of administrative efficiency has been pressed too far.*

'Our administration—so true and complete and experienced observers assure me—would be a great deal more popular if it were a trifle less efficient, a trifle more elastic. This leads up to a practical point. The district officer is over-worked, and is forced into mere official relations. Our danger is the creation in the circle of Indian Government of a pure bureaucracy—probably honourable, industrious and faithful, but very likely rather mechanical, rather lifeless, perhaps even rather soulless. An urgent demand for perfected and efficient administration leads to over-centralisation. *I shall spare no pains to improve relations with the Native Governments. I recognise their potential value as a safety valve. I shall use my best endeavours to make these States independent in matters of administrative establishment. All the evidence seems to show that the Indians are particularly responsive to a sympathetic pressure. Do not let us in mere anger estrange them, but let us try and draw to our side those whom these agitators influence. I believe the mass of the populations of India are on our side. I do not say for a moment that they like us, but they know that their whole interests are bound in the law and order which we preserve, and which would be broken and shattered in pieces if we disappeared.*

"My Lord, we have received this announcement and assurance with great pleasure and much satisfaction. These words of the Secretary of State have again confirmed the late Queen Victoria's proclamation in which we read:—

'*We hereby announce to the native Princes of India that all treaties and engagements made with them, by or under the authority of the Honourable East India Company, are by us accepted, and will be scrupulously maintained; and we look for the like observance on their part. We desire no extension of our present territorial possessions, and while we will permit no aggression upon our dominions or our rights to be attempted with impunity, we shall sanction no encroachment on those of others. We shall respect the rights, dignity and honour of native Princes as our own, and we desire that they, as well as our own subjects, should enjoy that prosperity and that social advancement which can only be secured by internal peace and good government.*

[27TH MARCH, 1908.] [Tikka Sahib of Nabha.]

"The relations between the Government and the States are capable of a great deal of improvement. Nothing would win their hearts more than sympathetic treatment, respecting fully their treaty rights, and giving them *full* independence in matters of internal administration. I would like to suggest one thing more in this connection, namely, that the Indian Princes and Chiefs should be tried whenever any occasion arises, only by their peers. It will save a great deal of misunderstanding and heart-burning. In England noblemen may be tried by their peers, and there is no reason why the same principle should not be extended to India. We had precedents for this practice in the past, but unfortunately it has been departed from for the last few years.

"We are very grateful, my Lord, for the new reform schemes which are now under the contemplation of the Government, and in this connection I would like to offer a few observations. It is very gratifying that the Government have at last realised the fact that the Indian aristocracy are the true and natural leaders of the people, and therefore proposals are now made to bring them more and more into touch with the administration of the country.

"First, as regards the Imperial Advisory Council, I generally agree with the proposals of the Government of India, but I just wish to make a few remarks regarding it. It is stated that (1) the Governor General will consult the members of the Imperial Advisory Council, either individually or collectively; (2) that they will occasionally be called together either in whole or in part for the purpose of collective deliberation; (3) that they will possess no formal powers of initiative; and (4) that the Imperial and Provincial Advisory Councils will receive no legislative recognition. Now as regards the first and second points, I beg to say that though His Excellency may have of course full right to consult the members individually, I think it would be much better to call the meetings of the Imperial Advisory Council regularly like the meetings of the Imperial Legislative Council, and that His Excellency the Viceroy should graciously preside over them, just as it is proposed in the case of Provincial Advisory Councils that the head of the Local Government himself will preside over their deliberations. This will involve extra trouble, but the object is worth the trouble and inconvenience. I fully agree with the statement that 'the Government of India attach the highest importance to collective deliberation, since the opinions thus obtained are different from and frequently more valuable than those elicited by individual consultation.' And at least for this reason, it seems necessary that meetings of the Imperial and Provincial Advisory Councils should be called regularly.

"As regards the third point I beg to suggest that both the Imperial and the Provincial Advisory Councils should have the power of informally submitting their proposals and opinions to the Supreme and the Local Governments, respectively, as the case may be, on questions of important public interest which may from time to time arise, *i.e.*, even on those matters about which they have not been formally consulted.

"As regards the fourth point, these Councils should in my opinion receive some sort of legislative recognition, and should be trusted with some sort of formal work and responsibility; for, unless this is done, I am afraid, though they might remain as ornaments to the Supreme and the Local Governments, they would be of little or no real use to the public and the Government, and after sometime the whole scheme might fall through, and the object for which the Councils are now constituted would not be attained. Besides it would be highly politic I think to give publicity to the fact that the Government is consulting the people's representatives on the Advisory Councils, and this object, I am afraid, will be defeated if the said Councils do not often formally meet for discussion of, and deliberation on, important public affairs, if their proceedings are always confidential and informal, and if they have no powers of initiative. Proper weight should always be given to the opinions of these Advisory Councils on the questions referred to them, or which they might submit on their own account, because it would look rather ridiculous if their opinions were treated with contempt.

"Coming to the proposals regarding the Imperial Legislative Council, in my humble opinion it would be most unfortunate and undesirable to introduce any *racial* feeling in this matter or to give any sort of prominence to any particular community. This would cause great heart-burning among other communities. Under paragraph 12 of the Government of India's letter I strongly object to the proposal that in the Viceroy's Council two members should be elected by the members of a certain community, and that out of four non-officials to be nominated by the Viceroy, two seats at least should be filled by members of the same class. Thus four seats will be the exclusive monopoly of a certain community, while no such provision is made for other communities like Hindus, Parsis, Jains and Sikhs. The reason given by the Government for this proposal is that the Muhammadans form a minority and that their interests must be safeguarded. Now as far as minority is concerned the Parsis and Sikhs form even a smaller minority numerically than the Muhammadans, and yet no provision is made for their representation. No other community in India can be found more educated, more enlightened and more advanced than the Parsis. The Sikhs, though still backward in the matter of education, have always proved

[27TH MARCH, 1908.] :[*Tikka Sahib of Nabha.*]

themselves firm supporters of Government, are not men of words but of deeds, have fought the battles of their King, as well under the burning rays of the sun as on snow-clad mountains, and are always ready to lay down their lives for their beloved Emperor. When no provision is made for other communities, it does not seem at all fair to favour a particular community by giving it special privileges. The same reasons apply to paragraph 17 of the Government of India's letter as to the proposal that a certain number of seats should be exclusively reserved for and filled by members of a particular community in the Provincial Legislative Councils.

"The Government of India in paragraph 19 itself admits that as in two of the seven provinces with Legislative Councils the followers of Islam constitute a majority, therefore a certain number of Muhammadans may also be returned to the Imperial Council under sub-head (b) of head D. I apprehend that perhaps they have overlooked the fact that in the same way under sub-head (c) of head D a certain number of Muhammadans are bound to be returned to the Imperial Council. Therefore, if the proposals as they now stand are finally sanctioned, there will be a great preponderance of Muhammadans in the Imperial Council, and perhaps at times this number might be as much as three-fourths of the whole non-official Indian members. Under the present arrangement only two seats will be available, under head E of the circular letter, for nomination by His Excellency the Viceroy for all other communities, a number which is all too small for such a vast country as India. Therefore I submit that under head D, sub-head (d), and under head E, all six seats should be reserved for nomination by the Viceroy, without any distinction as provided for in the letter. The Government of India in the concluding portion of paragraph 17 itself admits that Indian gentlemen of position sometimes refuse to offer themselves as candidates to an electorate, and at least for this reason, as I have suggested above, the six seats should be reserved for nomination by His Excellency the Viceroy.

"My Lord, it is very pleasing to note that some far-reaching changes are proposed to be introduced in the form of discussion on the budget in the Legislative Councils. In future more time will be allowed to the discussion than is at present allotted, and this will afford an opportunity for a more systematic and exhaustive criticism. At present a member is naturally compelled to condense in the limit of a single speech all the remarks which he has to make on numerous subjects, in an annual review of the administration of India; and this gives to the budget debate a discursive and unfruitful character. Therefore let us hope that the changes which are now sought to be introduced by the Government will

[ *Tikka Sahib of Nabha, Mr. Sim.* ] [27TH MARCH, 1908.]

make the debates less unreal, and will bring them into closer relations with the financial policy and administrative decisions of the Government."

The Hon'ble MR. SIM said:—"My Lord, on previous occasions I have had to thank the Finance Member for measures that have benefited Madras: I have now the pleasure of thanking him again. Last year he promised Madras a revision of its *Provincial Settlement* on his latest and most liberal lines. This promise he has fulfilled and, instead therefore, of a fixed assignment, which, however liberal at the outset, must sooner or later have proved insufficient for our growing needs, we shall now have an income based entirely on growing revenues. The change is a very necessary one in a *quasi*-permanent settlement, and I am specially commissioned to express the thanks of the Madras Government for it.

"I am also to express their satisfaction with the arrangement which the Financial Department has recently sanctioned (in its letter No. 358A, dated 18th January, 1908). Under this, the *lump deductions*, which that Department makes in Provincial Budget Estimates, may now be taken as corrections rather than as reductions, and Local Governments are left free to redistribute them during the year as the actual expenditure of the year may require. So liberal a departure from traditional usage has been much appreciated, and we may perhaps hope that the same principle, of freedom within bounds, may be extended so as to empower Local Governments to make *additional allotments* during the course of the year from their Provincial balances, within a similarly specified aggregate total.

"The Financial Statement (paragraph 128) mentions savings due to the delay in sanctioning what we, in Madras, know as *Mr. Meyer's Scheme* for the re-distribution of districts and divisional charges. My Lord, such savings are to be regretted, and I would ask for early orders on this scheme. I am aware that it is, at this moment, back again with the Government of Madras, for further consideration on certain points; but it will be soon returned, and I would ask that very early sanction may then be accorded to it. We have waited long for it, and it is much needed—more so now than ever, now that decentralisation is in the air, for it seems hardly wise to grant increased powers to men, unless time and opportunity to use those powers properly are also granted to them.

"The return of famine emphasises the need for *Protective irrigation*, and I would note with satisfaction the recent progress in that direction, which the Hon'ble Member records. It is true, as was quite fairly pointed out last year, that such works are costly; but famine, which, as the Hon'ble Member tells

[27TH MARCH, 1908.] [Mr. Sim; Mr. Reynolds.]

us (in paragraph 6), may in a single season, in money alone, cost the State 10 crores of rupees, is evidently costlier.

"In the presence of such a calamity all minor requests for money are silenced: we can but congratulate Your Excellency's Government on the success, financial and administrative, with which it has been met, and on the fact that in spite of it the Hon'ble Mr. Baker has been able by his grant for *Sanitation* to still continue the series of improvements which have marked his years of office. His change in the presentation of Local, Marine and Interest charges similarly continues his simplification of the *Public Accounts*, which, as correct Accounting implies correct Budgeting, will be welcomed as more than merely clerical alteration."

• The Hon'ble MR. REYNOLDS said:—"My Lord, when I spoke this time last year we, in the United Provinces, were suffering from one of the worst outbreaks of plague that we had as yet experienced. The deaths, which in January had been over 20,000, rose rapidly till in the month of April over a lakh of people died in the Provinces from this disease alone.

"The total mortality in the year 1907 was 328,862, a figure which has only once before (in 1905) been exceeded.

• "It was resolved that before the seasonal increase set in, energetic and systematic efforts should be made to endeavour as far as possible to reduce the havoc wrought by the disease.

• "A special staff has been employed for providing the people with the opportunity of obtaining inoculation, and in each of the eight principal cities of the Province a medical officer and one from the Indian Army have been appointed to supervise measures for promoting cleanliness and to supervise the operations against plague. For these purposes the grant of 5 lakhs, now made by the Imperial Government for expenditure on sanitary improvements, with special reference to the prevention of plague, will prove a most material aid, and I have to express our gratitude for the assistance. Steps were also taken to help the very poor in case they had to evacuate their houses, and to give them compensation if they could not afford to remain idle while under the temporary fever produced by inoculation, and the Inspector General of Police further took steps to guard the houses and property of those who might have to leave their dwellings when plague broke out.

"Perhaps, however, the most important step taken was to familiarise the people generally with the idea of inoculation as a protective measure.

[Mr. Reynolds.]

[27TH MARCH, 1908.]

"A whole-time officer was appointed who toured about the country during the rains, explaining the advantages of inoculation and showing how the serum was prepared and used, and translations of His Majesty's gracious letter with Your Excellency's letter forwarding it to the Lieutenant-Governor were made and circulated widely through the Provinces with the very best effects.

"Since the establishment of the special service the number of inoculations performed by their agency has amounted to 39,062 up to the end of February and the figures now show a steady increase each month. A good deal has thus been done to familiarise people with the idea of inoculation, and we can only hope that when the necessity arises they will be ready to resort freely to this, which is the best safeguard, so far as we at present know.

"As it happens, however, there has not been such a strong demand for inoculation as there might have been, as the rains failed last year, and, as has been noticed before, an unusually dry season following on a virulent outbreak has been followed by a season of comparative immunity from the disease.

"The mortality in the last quarter of 1907 was 3,531 only as against 15,998 in the corresponding period of 1906, and for the first two months of this year the deaths have been 7,002 as against 57,886 last year.

"While however the failure of the last rains has probably contributed in no small degree to this result, it has been the cause of the famine from which we are now suffering, and it is this which at present demands our most serious attention.

"The rains did not set in till past the middle of July, nearly a month late, and they ceased before the end of August. Even so they fell in very partial and scattered storms. At my own house for instance at Meerut but one good shower fell during the whole rains while a few hundred yards away they had four such showers. At the same time I was receiving letters from a place only 200 miles away complaining of excessive rain for the time being.

"The late September and early October rains, on which so much depends, entirely failed, with the result that the transplanted rice all dried up, the autumn fodder crops, on which the cattle depend, were also very short, and except on irrigated lands the spring crops could not be sown.

"To meet the impending calamity, very prompt measures were taken. One hundred and fifteen and a half lakhs of Revenue as mentioned by the Hon'ble Member for Finance have been suspended, and large advances, amount-

[27TH MARCH, 1908.]

[Mr. Reynolds]

ing so far to the sum of 172 lakhs, were made everywhere to enable the people to dig wells and purchase seed and fodder.

"There can be no doubt that these prompt and liberal measures have proved of the most inestimable advantage, and the people were enabled to commence their fight with the scarcity and famine with courage, realising as they did from the commencement that no avoidable effort would be spared by Government in coming to their aid. I have myself seen the partial famine in the Agra Division of two years ago, and the commencement of the present famine; and comparing what I saw in 1896 with my more recent experiences I have no hesitation in saying that there is now a far greater resisting power in the people themselves than there was twelve years ago; but I have equally no hesitation in saying that that resisting power has been considerably helped by the early and liberal aid which has been so readily afforded to the people from the very commencement of their troubles.

"The distress is of course most acute in those districts where rice was the staple crop and in the hilly parts of Bundelkhand, and the adjacent districts of Allahabad and Mirzapur, where irrigation from wells is difficult or impossible, and where everything always depends on a sufficient and timely rainfall.

"Relief works had to be started in parts of the Provinces in the middle of December, and the numbers on relief have rapidly risen at the rate of nearly 200,000 a week till the latest returns I have show that in the middle of this month 1,382,830 persons were being relieved by the State in one way or other out of a total population for the Provinces of approximately 47½ millions. Now that the spring crops are ready the numbers are falling slightly and on March 21st they were 1,335,128.

"In mentioning these figures I must not forget to add that the Maharaja of Balrampur has organised relief measures on his estate at his own expense, and over 28,000 persons are now being supported by him. I have to acknowledge with gratitude his liberality in this matter and to thank him for the noble example he is setting. I have no doubt that other landholders are doing their best, in so far as their circumstances will allow, and the response made to the request for help to supplement the Government measures of relief has already resulted in subscriptions amounting to Rs. 2,65,552 being raised in the Provinces, while we have also to thank the residents of Calcutta and Behga l for the assistance they are affording us in our distress.

"So far as the business today is concerned, however, I am more concerned with the effect of the famine on the finances of our Provinces. Last year the



Hon'ble Member for Finance told us of the scheme that Your Excellency's Government had formed to meet such a calamity. I ventured then to express a doubt as to whether the limit of 30 lakhs was sufficient to meet the requirements of a serious famine, and it was explained that these figures were empirical, and if found in practice to be unsuitable the Government of India would not hesitate to revise them.

"The estimate of famine expenditure in the Provinces to the end of March, is 67 and a half lakhs, and for the next year, though the local District officers would put it higher, the Local Government has estimated that the expenditure will not be less than 100 lakhs.

"The famine this year is undoubtedly a serious one, but its effects have been somewhat mitigated by the advances given and the revenue suspended. I do not see therefore how we can at all expect to get through a serious famine under less than a crore and a half for famine relief. Out of this we may have succeeded in accumulating the 30 lakhs, and this would therefore leave the Provinces to find sixty lakhs at the least out of their own resources while the Government of India would provide the remainder.

"Under the scheme we should, in the present instance, have to find probably 72 and a half lakhs, and seeing that we only commenced the year with a balance of 51 and a half lakhs to our credit the result on our finances is obvious. The Imperial Government has come to our rescue this year with a grant which will enable us to close our accounts with the minimum balance of 20 lakhs to our credit, and promises to come similarly to our rescue next year in order that the debtor and creditor sides of our accounts may at least balance.

"My predecessors and I have pointed out for several years now the really urgent need of our Provinces for further expenditure, and I fear we are beginning to be looked on as absolutely insatiable in our demands.

"The revision of our Provincial Contract has, as the Financial Member promised, formed the subject of discussion during the year, and we have to acknowledge with thanks the very liberal manner in which Your Excellency has endeavoured to meet our wishes, and we hope that the Secretary of State will deem fit to ratify the provisional arrangement that has been come to.

"The new arrangement will enable us to meet some of our more pressing wants, which as I pointed out last year include more funds for public works, education and hospitals. Municipalities are also in urgent need of assistance in some form or other. To these I may add that if we are to make any headway

[27TH MARCH, 1908.] . [Mr. Reynolds.]

against disease the sanitation of the smaller towns now requires further money from some source.

" I recognise that this is not a time to press our wants, and I have to acknowledge with gratitude the very generous way, in which we have been treated this year; but when the opportunity does come I trust that it will not be forgotten that we still have a lot of ground to make up that we lost in times past, owing to what we now see was the mistaken policy followed in the early days of Provincial finance.

" This is the more difficult to accomplish as in point of population we are the second largest province in India. The density of the population too is higher in Oudh than in any other part, while that of the Agra Province very closely approximates to that in Bengal.

" Of the 61 larger cities in India no less than 17 are within our boundaries, and out of the 22 cities with a population of 100,000 and over we have no fewer than 7.

" Now taking as a typical example our expenditure on education, I see that in the year ended March 31st, 1907, we spent Rs. 43,27,257 and only in Bombay and Bengal was a larger sum spent. But as compared with population I find that Bombay spent Rs. 252 per thousand, Burma 209, the Central Provinces Rs. 139, while we come last but one on the list, with an expenditure of only Rs. 91 per thousand.

" The history of each year shows clearly the ever-growing interest taken in the spread of education in the United Provinces, and there is no doubt that no subject comes before the District Boards in which the members take a keener interest.

" My Government had hoped to be able to take over the control of English education at head-quarters of districts as a Provincial charge at a cost of a little over 4 lakhs, and the local funds thus set free would have been available for further expenditure on primary education. In the course of the year a Committee met to consider the question of the improvement of technical education, and their recommendations, which promise much advantage to the Provinces in the early future, will also require funds if they are to be acted on.

" At present our finances are crippled by the large expenditure required for famine relief, and though the Government of India is coming to our aid in a very substantial manner, and the United Provinces Government has been enabled

[*Mr. Reynolds; Mr. Chitnavis.*] [27TH MARCH, 1908.]

to make a start towards the fulfilment of these schemes, I fear that many of our much-needed improvements will now have to wait for some considerable time before we shall be able to see our way to make even a fair commencement of them, if we have only our own resources to look to."

The Hon'ble MR. CHITNAVIS said:—"My Lord, the present Financial Statement is overshadowed by Famine, and the Hon'ble Finance Member is entitled to credit for having made an ample provision for the calamity at the same time that he expects to close next year's accounts with the substantial surplus of £571,500 or Rs. 85,72,500. In addition to the actual extraordinary expenditure on account of Famine, large suspensions and remissions of revenue are allowed. We all sincerely hope and trust that the provisions thus made will be sufficient to meet the difficulty. But, my Lord, the occasion demands a searching investigation into the whole subject of Famine. The people gratefully acknowledge the Government's solicitude for the prevention of loss of life from starvation; nevertheless, it may be doubted if everything has been done to remove the root-cause of the evil. My Lord, with all the perfection of the Famine Administration, the broad fact of the frequent recurrence of Famine in this unhappy land requires careful and earnest consideration. The necessity for making large suspensions and remissions of revenue even on the appearance of a Famine which, according to the Hon'ble Finance Member, is a tame affair compared to the past Famines, warrants the inference, as pointed out by me on previous occasions, that that revenue is assessed at its highest limit, which does not leave much margin to the farmer. As a matter of fact, my Lord, in the Central Provinces an unusually large proportion of the gross collection is taken by Government in revenue and cesses. This rack-renting makes the land-holding classes hopelessly dependent upon the seasons for sustenance, and prevents accumulation of capital for remunerative employment in the industries.

"The argument, my Lord, is not new that an agricultural country like India must be more or less affected by famines. It may be doubted, to put it mildly, if famine is so necessary a concomitant of an agricultural country; but conceding for argument's sake that the proposition is sound, an enlightened Government has a serious responsibility. Manufacturing industry, as must be evident, makes the people prosperous and independent of seasonal vagaries. The absence from the present Famine of the painful conditions usually associated with Indian Famines, which is noticed with such satisfaction by the Hon'ble Finance Member, will on careful examination be found to be due to a large extent to the growth of Indian manufactures, and the consequential rise in wages. Operatives are now better off than before, and manage somehow to

[27TH MARCH, 1908.]

[Mr. Chitnavis.]

struggle on in spite of high prices. In these circumstances it is the incumbent duty of the Government to foster and encourage industries in the country, not only to relieve the pressure upon land, but to give employment to the unemployed, and to increase the staying power of the people. My Lord, with all the benevolent intentions of Government, much unfortunately has not been done by it in this line. All the manufacturing countries of the world have passed through a stage when protection was found necessary, advisable and exigent. England has not attained her present industrial development without years of artificial help of this nature. Some of the European countries and Japan, with all their advancement, even now support their industries with bounties. But, not to speak of bounties, which, if given, would be money well spent, the Indian industries, though in their infancy, are absolutely unprotected. When a few years ago Government felt itself constrained by financial reasons to impose a small import duty, a countervailing excise duty was also imposed, albeit it was not wanted by the Finance Minister, and the cotton goods upon which it was imposed did not enter into competition with Manchester goods. The result has been regrettable. The impost has done Manchester precious little good, but it has seriously handicapped the Indian manufacturer in his competition with manufacturers of countries like Japan which support indigenous industries with bounties. Only the other day the Bomanji Petit Mills of Bombay had to close their Hosiery department for this artificial advantage which Japan enjoyed and the artificial disadvantage which the excise duty upon cotton goods imposed upon Indian manufactures.

"The Indian railways, notwithstanding difference of opinion about the propriety of State ownership, are a State concern. Government is spending millions of pounds sterling year after year upon them. The department is well cared for even in this year of Famine, but the freight charged upon goods is distinctly disadvantageous to Indian manufacturers, so much so that distant countries like Japan and Germany can place their manufactures on the market on the seaboard at a far less cost than the Indian manufacturer working in the interior. This clog to Indian Industry was the subject of complaint in Dewan Bahadur Ambalal Sakarlal's Presidential Address at the last Industrial Conference at Surat. He observed that 'it costs nearly Rs. 15 per bale of yarn or cloth sent from Ahmedabad to Calcutta or Calcutta, while it can be sent to the latter place by rail and sea combined for nearly half that sum.' Mr. A. C. Chatterji, I.C.S., of the United Provinces, was likewise explicit :

'One of the most interesting and difficult questions that have cropped up in connection with my inquiries in the United Provinces is that relating to railway freights. Many of

the existing industries complain that it is hopeless for them to find a market for their produce in the large towns on the seaboard, because railway freight even at the lowest rate over long distance in the country is higher than sea freight from competing countries like Japan, and Germany.

"It is difficult to believe that a satisfactory re-adjustment of rates is impossible through Government influence.

"In the Appropriation Report on the Accounts for 1906-1907, the increased supply of beet sugar from Germany and the unprecedented imports of cane sugar from Java have been made the subject of comment. If these imports go on unchecked, there will be small chance for the Indian sugar manufacturer. Barring the enactment of the Indian Sugar Duty Act of 1899, this Government has not done anything to stop the swamping of the Indian market by foreign sugar.

"The Hon'ble Finance Member has taken care to inform us that the Commonwealth of Australia has recently 'imposed a duty of £1 per ton on salt imported from outside the Colony.' This impost is obviously due to the anxiety of the Commonwealth for the development of its own salt industry. The adoption of such protective import tariff is perfectly justifiable in Australia, and *a fortiori* would be justifiable in India; but we find instead a heavy excise duty levied upon salt manufactured in India. Indeed, the income from that source in 1906-1907 was far larger than from the import duty on salt, *viz.*, Rs. 4,21,69,000 against Rs. 1,93,21,000.

"My Lord, the most carefully-devised protective tariff would of itself be powerless to do much for industrial development, and small hope of industrial success can be entertained without the initiation of a comprehensive system of Technical Education; but that remains a desideratum. I note with gratitude the creation this year of a few more Technical Scholarships tenable in foreign countries on the lines suggested by me last year. I hope the scope of the Scholarships will be further enlarged, and their number increased; but such Scholarships alone cannot train a nation. I respectfully point out again that well-organised Technical Institutes at important centres are urgently required in the country.

"My Lord, the public of India expect that the Government will rise equal to the occasion, and adopt vigorous measures for the protection, encouragement and expansion of the existing indigenous industries, as also for the introduction of new industries, 'if only to insure the country against a possible famine. And the prayer is not extravagant that Government should, for its own interests

[27TH MARCH, 1908.]

[Mr. Chitnavis.]

as much as for the relief of the landholding classes, limit its demand upon land to a more moderate figure, so as to allow ample provision against contingencies.

"High prices, my Lord, are another very disquieting factor. They have affected the Hon'ble Finance Member's calculations. The cost of maintenance of the Army has increased in consequence. The alarming feature of the rise consists in the fact of its apprehended continuance. It behoves Government to inquire fully into the causes, and to take steps for the removal of such of them as may be capable of administrative treatment. And it will be well to have a Joint Committee of Inquiry of officials and non-officials, and for which I am glad to note that my friend Mr. Gokhale has today pleaded so powerfully.

"My Lord, despite of the Hon'ble Finance Member's remark that Government is in no position to undertake any measures for the remission of taxation, I respectfully submit that, in view of the substantial surplus expected in 1908-1909, the excise duty on cotton goods could be easily abolished. It is not a very productive source of revenue; the maximum income from it has been Rs. 32½ lakhs. The budgetted surplus more than covers it twice over. The abolition of the duty ought to engage the serious attention of Government.

"Although the question of the abolition of the remaining salt-duty of Re. 1 per maund cannot be profitably discussed this year, the Hon'ble Finance Member has been at some pains to prove that the duty is the lowest charged by any Government, and he has quoted figures for some of the leading European countries. The table given shows that the tax is 2½d. per head of population in India against 8d. in England, 11d. in Germany, 2s. in Italy, 1s. 2d. in Austria-Hungary, and 6d. in the Netherlands. But the heaviness or otherwise of a tax has to be considered in the light of the capacity of the people to bear it; and any comparison with imposts of other countries which does not take into consideration the different incomes per head of population must be fallacious. The question is,—Has the penny the same value to the Englishman or to the German as it has to the Indian; in other words, is the purchasing power of the coin the same in the European countries named as it is in India? My Hon'ble friend Mr. Gokhale has just shown it is not. That being the position, the table will be found unconvincing. There would not, however, be much objection to allow the import-duty to stand, provided the excise-duty upon local manufacture is abolished or considerably reduced.

"My Lord, the Hon'ble Finance Member justly observes that 'the occasion is one for rigid economy and retrenchment wherever it can be effected,' but this golden rule seems to have been overlooked in providing for the Military

Expenditure, the Capital Expenditure on Railways, and the Civil Department Charges. The Military Expenditure during 1907-1908 is expected to be somewhat less than the budget of last year, but the reduction will not be due to the enforcement of economy. It is accidental. The department clearly could not consume what was given. Next year too the budget stands at the high figure of £20,754,400 against the Revised Estimate of £20,520,500 for 1907-1908! After the Anglo-Russian Agreement, India expected she would be relieved of at least a portion of the heavy annual burden. The subject ought to engage the earnest attention of Government.

"The most disquieting news about this Military Expenditure, is that the Government is ignorant of the possibilities of the recommendations of the Rother Committee. It is alarming from its very vagueness. The Indian public contemplate the possibility of an addition to the already heavy burdens on account of the Army and the Military Defences with the gravest apprehension; and if the contingency happens, it will be extremely difficult for the Government to remove the popular impression that larger burdens are from time to time thrown on the shoulders of helpless India by the British Government for its own convenience and financial relief.

"It remains to be seen how far the creation of a Controllorship for the whole of India will help in the reduction of Military Expenditure. The cost, which, with the expansion with time of the Office, is bound to be heavy, will be a net addition to the total expenditure. The compensating advantage will have to be proved.

"The Government is once again liberal in the matter of Railways. Ten million pounds sterling are provided for Capital Expenditure in 1908-1909! And yet the returns are admittedly not commensurate with expectations, and the increase in working expenses has been serious enough to alarm the Hon'ble Finance Member. The utilisation of the surplus and the cash balances in the construction of railways is open to objection on principle. In the opinion of many, surpluses should in the first instance be used in reduction of taxation. If it is now decided to spend a large sum of money on Railways, I think it will be well to allocate a sufficient amount for the Itarsi-Nagpur Railway as a famine project. Money so spent should be strictly limited to areas affected by famine.

"The Civil Departments, my Lord, in common with the Military Department, show a tendency to extravagance. The charges are increasing all round, and their future is unknown. What with regular increase of pay, early retirement, tour charges, sumptuary allowances, etc., the total cost in the Civil Departments is growing enormously. And this notwithstanding the fact that the

[27TH MARCH, 1908.]

[Mr. Chitnavis.]

Administration is now in the majority of local areas a matter almost of routine. There is a deal to be said for retrenchment and reduction, and hardly much for the multiplication of offices. High offices are being multiplied which cost the country a very large amount. Their number should be the subject of the closest scrutiny. Surely the time has come when the jurisdiction of Collectors can be safely enlarged. At any rate, without going into details, the subject is sufficiently serious to justify an appeal to Your Excellency for an investigation into the possibilities of retrenchment in the Civil Departments. Superannuation at age 60 instead of at 55 is likely to afford appreciable relief to Government.

"My Lord, one word about the grant for Irrigation. The progress made in irrigation as a whole is satisfactory, but I beg to point out that the Central Provinces have not had their legitimate share. The recommendation of the Irrigation Commission has not been given effect to, and the scheme of a total expenditure for the irrigation of the Provinces of three crores of rupees in twenty years, at the rate of 15 lakhs of rupees a year, should be faithfully worked. There is an impression in certain quarters that irrigation does not pay in the Central Provinces, and that the water-rate of Rs. 2 per acre cannot be realised. I do not think it will be difficult to realise a moderate rate from people who, though poor, cannot do without irrigation works. But even if the full rate is not recovered, and the works do not prove *productive*, they should be executed as *protective* works. The Hon'ble the Chief Commissioner, speaking at Raipur the other day, referred to two schemes which have been submitted for sanction to this Government. I sincerely hope they will be sanctioned and the recommendation of the Irrigation Commission will be loyally carried out.

"My Lord, the new departure made by the Government of India in the matter of sanitary improvement must be hailed with joy all over the country. It marks a wholesome change of policy which is pregnant with great possibilities. The recognition of its responsibility in the matter by the Imperial Government is a happy omen. The grant of 30 lakhs of rupees is too small, to be sure, having regard to the needs of the country; but once the principle is recognised, there is a reasonable hope for expansiveness in the allotment in time. I feel grateful that the suggestion I made last year on this point has received a considerate treatment at the hands of Government.

"My Lord, the bulk of my remarks today refer to the industrial development of India, and for the best of reasons. To my mind, that is the most important



[Mr. Chitnavis.]

[27TH MARCH, 1908.]

and exigent problem now before the Government. We hear a good deal of unrest, but, in my opinion, whatever restlessness there may be in the country is economic in origin. I do not mean to suggest that contributory political and social causes are absent; there are, as a matter of fact, powerful political and social causes at work; but the chief cause of discontent appears to me to be *want*. My Lord, no class of the people is free from the baneful and irritating influence of this all-pervading evil, which is, to a large extent at least, the effect of a civilisation unsuited to the habits, temperament and peculiar circumstances of the country. With the gradual working of the disruptive laws of succession and the break-up of the joint family system, most of the ancient families are ruined, notwithstanding the paternal care of the Courts of Wards; with the limitations upon their authority, the landholding classes have lost their capacity, prestige and power; increased competition for career has reduced the prospects of the respectable classes who have for centuries supported themselves by service, while the progress of an attractive material civilisation has instilled into them high ideas of ease and enjoyment, and placed these beyond their reach by their costliness; and the lower classes, although in receipt of higher wages at places, have lost the pristine simplicity of rural life, and, with their habitual want of forethought, have become spoilt by the example of the higher classes, and been drawn into reckless and ruinous expenditure. The high prices, for which free international trade is to some extent responsible, have affected the whole nation; it is the same cry everywhere; it is want and struggle for existence. So long as this want remains, the result is not only distress and disease, but also discontent and a desire for change. This is the problem therefore that the Government ought to apply itself to with all the philanthropy, enlightened self-interest and statesmanship which have characterised its action in the past. Do what you might, Your Excellency will leave the germ undestroyed unless this want is removed. And this can be best done by the expansion of the manufacturing industry of the country along with the adoption of subsidiary measures for affording relief to the community, agricultural and non-agricultural. The prosperous condition of the mill operatives in the large manufacturing centres proves this. The industrial development of India claims therefore serious consideration. I do not doubt the intentions of Government. The measures taken from time to time for the promotion of the education of the people in Technology and Economics demonstrate forcibly the sympathy and the earnestness of the Government in this matter. The announcement at the last Convocation of the Calcutta University of the creation of a Chair in Economics affords one more proof of the keen interest Your Excellency takes in the subject. But, while I cordially

[27TH MARCH, 1908.] [*Mr. Chitnavis; Munshi Madho Lal.*]

acknowledge all that Government has done to encourage Indian industry, as an humble representative of the people it is my duty to press the matter upon its attention, and to appeal to Your Excellency for a more thorough, vigorous and liberal treatment of the subject.

"Plague and other epidemic diseases have also taxed the patience of the people, but Government has wisely taken a new departure in the treatment of this evil.

"The natural yearnings of the people for political advancement is the most important of the contributory causes of discontent, and I am glad this aspect of the question is receiving sympathetic consideration at the hands of Government. But there is one other matter to which Your Excellency's attention must be invited: the Administration, besides being costly, is too complex, exotic and unimaginative. There is a bewildering growth of institutions, departments, and redtapism, enough to give a rude shock to the easy Oriental nature. Changes are sudden and appear in quick succession. All the conventional ideas of the people have been displaced; even the framework of society has been rudely shaken. The natural leaders have lost their prestige, and with it their influence. With loss of position the landlord has ceased to command respect, and is powerless to give legitimate direction to the thoughts and activities of the masses. With a feeling of amazement at the complexity and rigidity of the Administration and the changes happening all round, the people suspect, wrongly I am sure, Government is unmindful of their interests and slow to redress their grievances. And this feeling, made capital of by irresponsible agitators, is at the root of much of the present discontent, which is accentuated by an annoyance and impatience at taxation in general, and direct taxation, like rates, etc.,—unfortunately a growing item—in particular. When the Government has combated the economic evil and epidemics, has simplified the Administration and rendered it less costly and more studious of the public wishes and aspirations, much will have been done to ensure the permanence of British rule in India, and to fix it firm and broadbased upon the affections of a contented and loyal nation."

The Hon'ble MUNSHI MADHO LAL said:—"Your Excellency, the criticisms that have just been offered by Hon'ble Members have been so able and exhaustive that it will not be right for me to take up much time of this Hon'ble Council. I shall try to be very brief in my observations. Last year both the Hon'ble Mr. Reynolds and myself had to complain of the parsimonious way in which the United Provinces had been treated financially. This year I

[Munshi Madho Lal.]

[27TH MARCH, 1908.]

am glad to be able to thank the Government of India for its generous treatment. The Finance Minister has been able to make some substantial contributions. It is patent from the clear and concise memorandum of the Financial Secretary which accompanies the lucid statement of the Finance Minister that although it has not been possible to set apart much money, owing to the eccentricity of the season, for public improvements, the Government of India has generously dealt with our United Provinces, which are most depressed, with regard to the allotment of funds for famine relief, sanitary improvements and police reforms. It has already extended its support to the Local Government's scheme of industrial progress with which Sir John Hewett's Government has identified itself.

"Although my Hon'ble colleague, Mr. Baker, has not this year been so lucky as he had been in the past, he has laid on the Council table a hopeful financial statement for which he deserves our congratulations. The accounts of 1906-07 closed with a surplus of £1,589,300, being £263,200 above the revised estimates. But the famine of 1907 completely altered the situation, and in the revised estimates of 1907-08 there was a falling off of revenue accompanied by the restriction of useful and even necessary expenditure and a marked shrinkage of the surplus balance that was expected. The Budget Estimates of 1907-08 provided for a revenue of £72,753,000. The Revised Estimates showed only a revenue of £70,989,200. The public expenditure had to be reduced from £71,725,000 to £70,753,000, and the expected surplus at the end of the year dwindled from £774,000 to £235,000. For the year 1908-09, the revenue has been estimated at £73,438,900, the total expenditure at £72,867,400, and the surplus at £571,500. This surplus the Finance Member is sanguine enough, thanks to his robust optimism, to calculate on the assumption that the season will be normal. In the existing circumstances I can quite understand why it is not in the power of Government to undertake anything in the way of remission of taxation or do very much towards increasing useful expenditure for the development of the country. I trust, however, that the promised experiment of that much-needed though long-deferred reform of the separation of the Judicial and the Executive will no longer be put off.

"The Hon'ble Mr. Baker believes that if the monsoon be normal there is every reason to hope that the progress of the country will resume its usual course, and that the set back which it has met with in the present year will rapidly be made good. Little did we anticipate last year that the present year would be so unfortunately eventful and that the country would once more be in the grip of famine which will cover an area of 118,000 square miles in British

[27TH MARCH, 1908.] [Munshi Madho Lal.]

India and 15,000 square miles in the States of Central India and affect a population about 49 millions. And it is not the agricultural population alone that has been affected by the famine, but as is admitted by the Finance Minister, 'the distress caused by high prices has undoubtedly affected all classes and has pressed with great severity on the urban populations and on all who are dependent on small fixed incomes.'

"Here the reflection forces itself upon us, what if the crops fail again by the uncertainty of the monsoon? A writer in a Calcutta newspaper, a few days ago, showed that while in the first half of the last century there were seven famines, during the succeeding *quarter* of the century there were no less than six, while in the last *quarter* there were as many as nineteen. Whether these figures be quite accurate or not, there can be little doubt that of late the famine has proved itself to be a pretty frequent visitor, and that within the last forty years prices of food-grains have nearly quadrupled, that the daily increasing dearness of living has caused a marked decrease in the powers of resistance and recuperation of the masses. The recurrence of famine in rapid succession, the tenacity with which the plague has held on, the decimation of large numbers of people from small-pox, fever and other preventible diseases, tend to make one sceptic of the value of paper calculations. When disease cripples and death depopulates a country, how can its revenue be ensured? In the words of Aristotle to Alexander, 'thou knowest already that the people are thy treasury which thou must carefully preserve and replenish, for thereby thy kingdom is established.'

"It is not due to famine alone that our resources have been crippled. The Plague has come to stay. Then again hundreds, nay thousands, die every year from Dysentery, Diarrhoea, Fever, Small-pox and Cholera—diseases which science can combat with and even prevent by improving the sanitation of the country as also the general physical condition of the people rendering them less susceptible to their ravages. To say that the sanitary condition of the country is capable of very great improvement is repeating a truism. It is unnecessary for me here to quote figures in support of my contention. In my own provinces the mortality from preventible diseases has of late been enormous. In Bengal, where the country all round is water-logged and the drinking water in most places is simply filthy, the wonder to me is how people live and not why they die. The Budget Estimate no doubt provides for a special assignment of 30 lakhs to Local Governments for sanitation, out of which the United Provinces have been lucky enough to get the largest share, *viz.*, 5 lakhs. In this connection I again beg to press upon the attention of the Government the claims of the Benares Drainage Works, regarding which I spoke before this Council last year.

[*Munshi Madho Lal.*] [27TH MARCH, 1908.]

"My Lord, by far the heaviest item of expenditure is under the head of military charges, the total of which has been budgeted at—

20,754, 400 for 1908-1909 as against  
 20,520, 500 for 1907-1908,  
 21,586, 086 for 1906-1907,  
 21,059, 411 for 1905-1906.  
 21,906, 377 for 1904-1905.

"I am too old-fashioned to ignore the ordinance of our great Law-giver, Manu, who says 'By a king, whose forces are always ready for action, the whole world may be kept in awe; let him then, by a force always ready, make all creatures living his own.' We want a force well-manned and well-equipped, in order to hold our own against all-comers. And in this matter expert advice is of very great value. We are lucky in having in our midst one of the greatest military experts of the day. But there is an obvious danger in letting the military have a free rein. In the words of Sir Robert Peel—'If you adopt the opinion of military men, naturally anxious for the complete security of every available point, naturally anxious to throw upon you the whole responsibility for the loss, in the event of war suddenly breaking out, of some of our valuable possessions—you would overwhelm this country with taxes in time of peace.' His Excellency the Commander-in-Chief is, I am glad to note, anxious to secure efficiency with economy in all his attempts at reorganisation of the Indian Army. The only question which will demand before long the serious consideration of Your Excellency's Government is whether under the present political conditions it will not be possible to reduce the strength of the Indian Army, consistently with order and good government, the more so in view of the remark recently made by the Secretary of State for War.

"For, after all, the security of the Government, as every schoolboy knows, lies not only in the strength of its Army, but also in the contentment of the People. To quote again from one of Aristotle's letters to Alexander—'Know that thou canst not reign over persons and govern their hearts but by means of justice and righteousness.' Or as Jeremy Bentham said—'If you would gain mankind, the best way is to appear to love them, and the best way of appearing to love them is to love them in reality.' Of late we have been hearing much of 'sympathy between the rulers and the ruled'; and attempts are being made in high quarters, I am glad to bear testimony, to foster friendly feelings amongst Indians and Europeans. But the spirit of sympathy and good

[27TH MARCH, 1908.]

[Munshi Madho Lal.]

understanding has yet to permeate through all the grades of officialdom before the widening gulf between the governors and the governed can be bridged over. Just as the members of the ruling race need great tact and sympathy in their dealings with the people, my countrymen also should, I think, have less impatience and more tolerance in criticising public men and measures, and try to take a more charitable view of Governmental actions. There is such a thing as winning hatred by love, and suspicion by confidence. No sane man objects to any legitimate means of advancing home industries or of developing the resources of the country. But in doing so let no bitterness possess us; let us work within the law, with faith in our cause, cheerful in the hope of its ultimate success; and then we cannot but enlist the sympathy and co-operation of all right-thinking men.

"My Lord, we have it on the highest authority that sympathy is the keynote of the British administration in India. Of kindly professions and good intentions on the part of our rulers there can be no doubt. But what the country wants, in the midst of the new ideals born of Western education and modern enlightenment, is some *practical steps in advance* in the administration of the country. The Indians are a most peaceful and law-abiding people in the world, and to secure their goodwill and allegiance is not very difficult. True, want of education is sometimes a stumbling-block in the way of their proper appreciation of some Government measures. But they are generally fairly shrewd observers of men, and much depends upon how the representatives of the Government behave with them. As to the educated community Your Excellency was pleased to observe not long ago that though very small in numbers, compared with the vast mass of the population, they are not a negligible quantity, and I submit that their voices demand earnest and sympathetic attention of the Government. A Government that strives to conciliate and advance its subjects can hardly be accused of weakness. My Lord, the scheme formulated by the Government of India for the expansion of the Legislative Councils and the establishment of Advisory Boards is good in its intention. I hope, however, that to make it a real boon the Government will see its way to modify it materially. As I have already stated my views on the subject in another place I do not consider it necessary to repeat them here. I sincerely hope and trust that Your Excellency's administration will be signalised by the grant of substantial political boons to my countrymen, and that the economic question will find a solution which will be to the advantage of India and England. The most natural demand of the educated community for a larger share in the administration of their own country is daily growing stronger. Let England discharged

[*Munshi Madho Lal ; Maharaja of Darbhanga.*] [27TH MARCH, 1908.]

its duty by India, of uplifting it once more in the scale of nations, and of making it occupy a worthy place in the Empire.

"My Lord, last year I tried my best to plead before this Hon'ble Council on behalf of Lady Ind. The past year has been unlucky for her. Not only were the Home authorities not moved by my appeal, but even the gods have been unpropitious. And to crown all, her young ones have, in some cases, shown distinct signs of restlessness. My Lord, it is the function of a paternal Government to enforce discipline and to properly train its children but let me beg the Government that in chastising unruly ones let their ears not be pulled too hard, and let not hardened criminals and hairbrained enthusiasts be dealt with in the same way. Occasional connivance at shortcomings pays in the long run more than constant and stern rigidity. Boys are boys all the world over; and it is not always wise to hound them; though efforts to keep them confined to their legitimate functions should be welcomed by all true well-wishers. I trust that the responsible leaders of public opinion in this country will so guide their countrymen as to win the sympathy and support of a Government which, though foreign, cannot be replaced for a long long time to come by a better one, be it foreign or native. May the Supreme Ruler of the Universe so direct the affairs of the Government of our beloved King-Emperor as to bind in a golden chain of love the hearts of all his Indian subjects to his august throne."

The Hon'ble MAHARAJA OF DARBHANGA said:—"My Lord, considering that the Budget which has been presented to us is a famine one, I think we may congratulate ourselves upon the financial forecast given by the Hon'ble Mr. Baker for the coming year, and be thankful that it is no worse. The Budget neither remits nor increases taxation. There is no heroics of any kind mentioned and there is the prospect of a fairly good surplus at the end of the financial year. This is a matter for satisfaction.

"I am glad to see that a beginning has been made in the simplification of accounts, in the separation of local from general finance, in the grouping together of the military figures, and, not least, in the classification of public debt. Now that the process of simplification has begun, the department responsible for classifying the various accounts may be induced to continue their good work and give us fresh specimens of their enlightened endeavours when the next occasion comes round.

"I note with pleasure, my Lord, that there has been a decrease in Military expenditure, but surely the time has now come when the Government

[27TH MARCH, 1908.] [*Maharaja of Darbhanga.*]

ought to consider seriously the advisability of materially reducing the burden on the people caused by the upkeep of our huge Military establishment. Let it be done gradually if you will, but now that our North-West frontier is secure from invasion by the Anglo-Russian Agreement, it appears to me that a smaller army than now exists ought to be sufficient to maintain peace within our borders and thus liberate a vast sum of money for more profitable investments in the expansion of railways, irrigation, scientific agriculture, and the exploitation of our Fisheries. My Lord, I put it respectfully to you that Rs. 30 crores per annum is rather too high an insurance premium for the Indian people to pay in a time of peace, and I trust the Government will take this matter into their serious consideration.

“The liberation of a few crores of rupees by means of a lessened Military expenditure would put it in the power of the Government to give an increased development to the railway systems of the country, and to provide for adequate transport facilities, now far short of what they ought to be—for the rapid development of traffic now going on. The present high price of coal has already seriously increased the working expenses of our railways, and is tending to cripple many of our industries whose very existence depends upon getting their necessary fuel at moderate rates. One of the main factors in the present exorbitant prices of coal is doubtless to be found in the great shortage of wagons for transport, coupled in some cases, with the want of efficient management in the quick handling of the rolling-stock for transport purposes only, and in preventing the wagons from becoming mere coal godowns. The throttling of commercial traffic is a very serious one for the country, and I am glad to see that the Railway Board, in their report, are thoroughly alive to the gravity of the situation. The Government have during the last twenty-seven and a half years received twenty-six crores profit from the East Indian Railway alone, and in view of such good results it is mild criticism to say that to keep the lines short of rolling stock is equivalent to something like killing the goose that lays the golden eggs. I am glad to see however that part of the three crores loan is to be expended on railways, and doubtless an adequate addition will be made to the number of wagons required for the increasing traffic.

“Sanitation, my Lord, is a subject of perennial interest to us all, and I notice that Rs. 30 lakhs have been budgetted for allocation amongst the various Provinces on this account, which is so far well. But there is one matter, on which I trust Your Excellency will at this time be able to give us some definite information, and that is regarding the scheme for the Improvement of Calcutta.



[Maharaja of Darbhanga.] [27TH MARCH, 1908.]

It is now seventeen years since the Sanitary Commission gave in their report, and today we seem not to be much further forward than we were at that time. That report revealed that there were congested areas in Calcutta reeking in filth and disease, where the number of inhabitants were four times as dense as in the most congested parts of London, and nothing has yet been done to mend this state of matters. A Calcutta Improvement Scheme has been dangled before our eyes during recent years—a scheme which was to turn our metropolis into the Queen of the East. May I respectfully ask the Government, where is that scheme now? Does it still exist? If so, when is it to come into operation? Perhaps the Government may take us into their confidence and tell us wherein lies the hitch? Is the difficulty one of finance? There are fifty lakhs lying in trust with the Government of Bengal for the scheme, and, as has been suggested before, there is our great monopoly of Jute, a moderate export duty on which would pay for the whole cost of the improvement of our metropolis out of the pockets of our foreign customers, without any burden being felt here at all, or without the chance of hurting the industry in the slightest degree. It is absurd to say that an article which we alone can sell cannot stand a small tax, seeing that the price can range from £13 10s. to £26 per ton, the rate it touched during the last year, without any cessation in the demand for the article. I suggest therefore that if financial considerations form the hitch, the remedy may be found in putting a moderate tax on Jute.

“Anyhow it is surely high time this Calcutta Improvement Scheme was launched, for it has now been abundantly proved that all the other experimental measures which have lately been in vogue for checking the ravages of plague, such as disinfection, inoculation, rat-catching and flea-hunting, while these may have had some ameliorating effects, there is nothing that can have any lasting effect in extirpating the scourge of plague and other diseases begotten in filthy conditions, than by rooting them out of their lairs by effective sanitation in such a manner as this Calcutta Improvement Scheme was designed to bring about. I trust therefore that the Government will today be able to give us some authoritative and satisfactory deliverance on this most important subject. Perhaps the Hon'ble Member for the Home Department will forgive me if I remind him that in his speech on the Budget Debate last year he made the distinct promise then that the Calcutta Improvement Scheme would ‘soon’ come into being.

“The food supplies of the people naturally call for consideration in time of famine, such as a large part of the country is passing through at the present moment. To meet the pressing needs of the

[27TH MARCH, 1908.] [Maharaja of Darbhanga.]

starving thousands the Government have been prompt in supplying enough food to keep body and soul together, and the voluntary organisation recently inaugurated will, with the funds placed by the public at their disposal, supplement State aid by giving other alleviating comforts to the suffering people. But after all, while it is good and right to meet famine in these ways when it all too often makes its appearance, it would be better if we did our utmost to bring about conditions which would go far to banish famine altogether from the land. I mean by increasing the food supplies of the people by the greater development of scientific agriculture and by the exploitation of the fisheries in our coastal waters and our inland streams.

"My Lord, agriculture, as has often been said, is the first and most important interest in India, and the Government, during recent years, have not been slow to recognise the fact, and by the establishment of agricultural colleges here and there, and by the model experimental farms, have made a beginning in tackling the all-important subject. But let us all recognise that it is only a beginning, although a very promising one, that has been made up to the present time. It is good by means of these comparatively few experimental farms to show that with selected seed, proper preparation of the soil, and by the use of the most suitable fertilisers, two blades can be made to grow where only one grew before. It is good also to issue all this most valuable information by the means of reports. But these have little effect on those chiefly concerned, *vis.*, the cultivators themselves, for they seldom see these documents, and the passing visits of itinerating instructors throughout large districts produce very little effect in moving the raiyat out of his old ruts. What is really wanted is that scientific agriculture should be made an indispensable part of the primary education given in all our schools. Nine-tenths of our population are of the agricultural class, and it is by catching the children of the raiyats at the village schools and by early indoctrinating them there with sound instruction in principles of scientific agriculture, illustrated in a pleasant way by experiments in gardens such as are attached to some of the schools now, that a real living and abiding interest will be taken in this question of all questions for the salvation of our land from the desolations of famine.

"Important as a training in the three R's may be, it is in my opinion more important still that the children destined to be cultivators of the soil should receive a sound agricultural education in our primary schools, if any real progress is to be made towards increasing the productions of the soil so as to give our fast increasing population an adequate supply of food. Money will of course be required to provide for such agricultural education, but I am sure Your

[Maharaja of Durbhanga.] [27TH MARCH, 1908.]

Excellency will agree that such money will be well spent, for, like good seed, it will yield a rich harvest in the near future. Probably His Excellency the Commander-in-Chief may be able by future judicious retrenchments in the Military Budget to enable the Government to have money at their disposal for giving this much-needed agricultural education in all the primary schools throughout the country.

“ My Lord, the whole question of food-grain supply is one of the most vital and pressing problems which demands solution at our hands. In the course of my remarks on the Budget last year, I made a respectful request that the Government of Your Excellency would be pleased to grant a Commission of Enquiry to examine into the whole subject. In reply the Hon'ble Financial Member of Council said: ‘ There is no doubt that prices have ruled very high during part of the past year. I have seen it stated in the papers that a Committee has been formed under the presidency of the Hon'ble Maharaja to consider the situation, and, if possible, to devise measures to meet it. If the Maharaja's Committee (“ Annarakhini Sabha ”) is able to devise any means of mitigating the difficulties, its labours will be deserving of encouragement. Until we see what the Maharaja's Committee elicits, I do not think there is any occasion for a Government Committee of Enquiry.’ ”

“ My Lord, the members of the Sabha have placed before me a statement the perusal of which has made me more inclined than ever to press upon Your Excellency the absolute necessity which exists for the formation of a small expert Government Commission to enquire into the whole matter. The facts and reasons demanding such an enquiry may be stated as follows:—

(a) In 1866-67 (Orissa Famine) the area most affected was 12,000 square miles, containing a population of about four millions of people (*vide* Famine Commissioner's Report of 1878).

(b) In 1873-74 (Bengal-Bihar famine) the area affected was 40,000 square miles, and the population affected was seventeen millions (*vide* Famine Commissioner's Report of 1878-80).

(c) In the present year the area affected is 150,000 square miles and the population affected is fifty millions. (I quote from Your Excellency's speech in the Town Hall on the 17th March current.)

“ My Lord, you will observe that the foregoing facts and figures distinctly show that the area and population affected by successive famines have been rapidly on the increase.

[27TH MARCH, 1908.] [Maharaja of Darbhanga.]

"During the first half of the 19th century there were nine famines affecting different parts of India, whereas during the second half of the same century there was no fewer than twenty famines, including the famine of 1901, affecting different parts of India. These facts show an alarming increase in the extent of these calamities.

"My Lord, it has been acknowledged by your Government that the prices of food-grains this year are 'much higher than during the great famine of 1900, and distinctly higher than in 1897.' But the high prices this year have one special characteristic distinguishing them from their predecessors. They are not confined to the affected area, but are universal almost over all India. This rise in the price of grain all over India tends, in my opinion, to show that the affected districts of India are largely importing food-grains from the unaffected districts, and that the time is not distant when exports of food to foreign countries will so exhaust the resources of India as to render them incapable of affording the surplus which may be required for the affected districts.

"My Lord, I have seen it stated that 'the export trade encourages production and creates a reserve which can be drawn upon in time of scarcity.' I am afraid that this 'reserve' is more or less a fiction as it is spent in buying necessaries of life, the prices of which have a tendency to rise *pari passu* with the rise in the price of the staple food-grains. If there had been a 'reserve' in the country there would have been a staying power with the people. But the facts prove otherwise. No sooner does one monsoon fail, or show signs of failing, than scarcity at once begins to be felt.

"My Lord, the price of rice, the staple food of Bengal, was about Rs. 1-8 per maund in Calcutta in 1866-67. Today it is between Rs. 7 and Rs. 8 per maund. This increase is phenomenal and perhaps unique in the world's prices of food within so short a period. This rapid increase in the prices of food-grains has a reflex action on the prices of all other articles of human consumption, and until this tendency is brought under proper control, the results will be of a serious order. I know that the general idea is to cast all the responsibilities for famine on the freaks of the monsoon. But monsoon freaks occur with neither more nor less frequency than they have ever done from the days of old. But the present differs from the past in that there is no reserve of food now when famine occurs and consequently no staying power among the people. My Lord, I could say much more in support of the proposal I have respectfully made, but I trust Your Excellency will feel that I have said enough to influence the Government.

[*Maharaja of Darbhanga.*] [27TH MARCH, 1908.]

of India to make a wise concession to popular opinion and grant a Select Commission of Enquiry to examine into the whole question of the Food Supply of the people and all things related thereto. Your Excellency is aware that a private Commission would not have the same weight or authority in the eyes of the public, nor could it collect its information in the complete manner in which a Government Commission would have at its disposal, and I need hardly add that its conclusions and recommendations would not have the same weight as those of an official Commission in the eyes of the Government or of the public. Whatever might be the outcome of an official Commission, I am sure at least that it would convince the country that the Government had made an honest attempt to arrive at a solution of the great problem of the Food Supply of the people. And this in itself would be a good achievement. But the Government Commission would have to be invested with full powers to go into the whole question and be invited to suggest the remedies which they think would cope with the disease.

"My Lord, I may note in passing while speaking of Food Supply that I am glad to see that the Governments of Bengal and Madras have taken up in earnest the question of Fisheries Investigation. The Government of Madras have already made great progress in this direction and have established a Fishery Board under the able superintendence of Sir Frederick Nicholson. In Bengal I am glad to see that the lines are being laid down for experimental investigations, and that a steam trawler is expected out immediately to commence work in the Bay. In this way, my Lord, a lead will be given to private commercial enterprise from which enormous results of a beneficial kind are likely to flow, in not only materially increasing a constant supply of good and cheap food, but also in multiplying the means of national wealth, and bringing into existence quite a number of related industries which are as yet strangers to the land. My Lord, I earnestly trust that the good work now commenced in Madras and Bengal will go on until every Province has a Fishery Board of its own, and that Your Excellency's Government will do all in its power to foster such a hopeful enterprise as will result from the scientific exploitation of our coastal seas and our inland waters.

"It might not be out of place here to refer to some inland waters for which we have no use. I mean those which are cooped up by railway embankments in times of flood, because there are no culverts or waterways through these embankments to allow the water to go away. There was a recent Conference at Mozufferpur on this question held by the Commissioner of Patna with the Collectors of Darbhanga and Mozufferpur and the Chief Engineer

[27TH MARCH, 1908.] [*Maharaja of Darbhanga.*]

of the Bengal and North-Western Railway; and in the course of the discussion it was acknowledged by the Chief Engineer that more waterways were absolutely necessary as the recent floods had been caused by the water having no means of getting away. This is a question of national importance, as these waters cooped up by the railway embankments sour the land and render it less fit for cultivation, and bring malarial fever in their train. Some years ago such a state of matters was experienced in the neighbourhood of Calcutta until the necessary culverts were made to allow the water to subside. I trust Your Excellency will call the attention of the Railway Board to this all-important matter, and especially to take notice that the culverts be made in all new railway embankments where it is essential that flood water should have easy means of getting away.

“My Lord, I look forward with some degree of hope to the results of the Decentralisation Commission now engaged in their enquiry throughout India and trust that the outcome will be in the interests of a better and more sympathetic administration in the subordinate ranks of the Government than now exists or, it may be, is now possible. Anything, my Lord, that will tend to dissolve cast-metal bureaucratism, and will bring our subordinate administrators more into living touch with the people in their daily lives, to mingle more and converse with them, to listen sympathetically to grievances, to give friendly advice and to heal differences, will all tend to bring about a more genial atmosphere of feeling between the governors and the governed, and will cause peace and contentment to spring up where unrest and aversion existed before. My Lord, while on the matter of reform, I would like to express my humble opinion that so soon as it can be brought about it would be better to have a uniform system of Provincial Government in India than continuing the methods now in vogue. The Provinces which are now Lieutenant-Governorships should all be raised to the same status as Madras and Bombay, and each Province have a Governor and Council of its own. I am sure, my Lord, that the people of Bengal would welcome such a change as an improvement upon the present system.

“My Lord, may I be permitted to hint that while the growing charges connected with the Administration are beginning to bulk largely in the eyes of the public, criticism is directed mainly to the fact that the increased expenditure has been nearly all for the benefit of the upper ranks of the Civil Service. No one has the least objection to the high officials being comfortably housed according to their rank, and within the limits of moderation; but, my Lord, it is meet at the same time that the subordinate ranks whose salaries range say from Rs. 500

[Maharaja of Darbhanga. [27TH MARCH, 1908.]

downwards, should, in these days of higher rents and increased cost of living, meet with adequate consideration also. As I have said, I merely hint at the matter, feeling assured that Your Excellency's Government will do what is right in ameliorating the lot of these public servants who now feel hardly hit by the altered circumstances in which they feel themselves placed.

"If I might say a word to Your Excellency regarding the threatened dislocation of some of our public services recently on account of grievances, alleged or otherwise, formulated by employees in some of the subordinate offices, not being promptly attended to by their immediate overseers, I would respectfully suggest that when such employees formulate their grievances a copy of the document which is sent to their immediate overseers should also, at the same time, be allowed to be sent in to the Head of the Department for his information as to what is going on in the ranks of the employees. I am sure, if this were allowed, adjustment of grievances, sometimes too long deferred, would receive prompt attention, and strikes hurtful to commerce and to the public generally would in many cases be absolutely avoided.

"It is to be noted with great satisfaction that Your Excellency's Government are now engaged in devising means for more closely associating with yourselves in the Councils of the Government, the most capable men in our various communities whose character, ability and experience mark them out as being fitted for the work; and we have every confidence that Your Excellency will hold the balance even in giving each considerable section of our communities their due and fair share in proportionate representation. In connection with the subject I would suggest, with all due deference, that as the Import and Export commerce of the Empire finds due representation by members of the British Chambers of Commerce on the Imperial and Provincial Councils, the great internal trade and commerce of the country, which is at least about six times the value of our foreign trade, should also be represented on Your Excellency's Council by the admission of Indian merchants of experience, such as the Hon'ble Mr. Thackersey, who would be able to give valuable advice when matters connected with our internal trade came up for consideration.

"My Lord, in my remarks during the Budget Debate a year ago, I alluded to the question of the Victoria Memorial Hall. I know that this is not a question which is directly under the control of the Government, but it is a matter of national interest after all. The things connected with the Memorial do not seem to be in a much greater state of forwardness than they were twelve months ago. Indeed, there has been considerable controversy

[27TH MARCH, 1908.] [Maharaja of Darbhanga; Mr. Harvey.]

and differences of opinion have arisen amongst the engineers and architects consulted, about the nature of the structure to be erected. And now the plans and estimates are again in the crucible. No one knows what is going to happen; but seeing that eminent doctors differ so much from each other I would again respectfully offer the opinion that before anything further is definitely decided upon, the subscribers should be asked for their opinion as to how the money should best be devoted to honour the memory of the great Queen-Empress.

"My Lord, in bringing my remarks to a close, I would venture to suggest as an improvement on the present course, that the Budget should be introduced early in January of each year, the financial year to close on the 31st December instead of the 31st March as at present. If there are any serious objections to this proposal so that it cannot be entertained, then, as there are often matters connected with and arising out of the discussion on the Budget which might form subjects for subsequent conference with Your Excellency if we only had the opportunity, it would be esteemed as a great and special boon if Your Excellency could see your way, instead of departing immediately after the conclusion of the Debate, to prolong your stay in Calcutta for two or three weeks in order to give those who cannot go to Simla, opportunities for such private conference, for the purpose of making representations on matters regarding which we might wish for further explanation, or for making suggestions on others of public importance which have not come within the scope of the Budget Debate. I am sure if Your Excellency would accede to this proposal the public would esteem your acquiescence with thankfulness and profound gratitude.

"My Lord, when last I had the honour of addressing you on the Budget, India was in a comparative state of unrest from various causes. I am happy to believe that, under the sympathetic and wise rule of Your Excellency, much of the bitterness which was mixed up with the unrest is passing away, with the increase of closer and more friendly feelings between the governors and the governed, and the cordial recognition by the people that the British Raj means well to the country at large.

"I conclude by thanking Your Excellency most cordially for the grace and patience with which you have listened to my remarks."

"The Hon'ble MR. HARVEY said:—"My Lord, I have officiated for a few days only as a Member of Your Excellency's Government, and in ordinary circumstances would have felt it incumbent on me to take a very limited part in the debate. But as I have been connected with the Department of Commerce



[Mr. Harvey.]

[27TH MARCH, 1908.]

and Industry since its creation and am familiar with the work done in the various branches of business with which it deals, it will perhaps not be out of place for me to review as briefly as possible the principal features of the year's administration.

"The latest available statistics of our sea-borne trade show that the expansion of the last three years has so far been maintained. The total value of imports and exports, excluding Government stores, for the eleven months ending February, 1908, aggregates nearly 314 crores, which is an increase of 9 per cent. on the total for the same period of 1906-1907, and is only 4 crores short of the trade for the whole of that year. Imports, which account for the greater part of the increase recorded, are returned at 147 crores, or 12 crores in excess of the value of the import trade for the twelve months ending 31st March 1907. The chief advances are under 'cotton fabrics,' 'railway plant and rolling stock,' 'iron and steel.' There have been large exports of raw cotton, seeds, jute manufactures, rice and wheat, but against these we have to set heavy decreases in raw jute, cotton yarn, and hides.

"I fear, however, that the present rate of expansion is not likely to be maintained in the immediate future. The latest information points to the fact that, in the import trade, there has been a large accumulation of stocks, especially of piece-goods, and the effect of the scarcity in Northern India has, so far as the statistics are concerned, barely had time to make itself fully felt. In all our staple lines of exports, however, the figures for the first two months of 1908 show an appreciable decline, and the total increase up to date is due entirely to the large exports in the beginning of the official year. The exports of Indian manufactures show a net increase of  $1\frac{1}{2}$  crores, which is mainly attributable to the increased activity in the jute manufacturing trade in the earlier part of the year 1907-08, but there has been a certain reaction recently due to causes which are well known. The yarn trade with China shows a marked falling off which is only partially counterbalanced by the advance in exports to other markets in the Levant and Europe which Indian traders have recently entered. There has, however, been a greater internal demand for cloth manufactured in Indian mills, which are absorbing a larger proportion of our Indian yarn, and under this head the returns show a satisfactory improvement.

"At all the important ports, measures are in progress to provide for the demands of trade. The Calcutta Port Commissioners have taken steps to acquire the land required for the large scheme prepared by their Chief Engineer. In Bombay, in addition to the construction of the New Docks, the progress of which has been somewhat retarded by unexpected difficulties,

[27TH MARCH, 1908.]

[Mr. Harvey.]

the Trustees are undertaking at an estimated cost of 131 lakhs, a large reclamation project which will give a wharf frontage of two and a quarter miles, between Mazgaon and Sewree, and sanction has been accorded to the raising of the necessary loan. Similarly at Karachi, the Port Trust have submitted proposals for the construction of ten ship berths at a cost of 125 lakhs. The erosive action of the river at Rangoon has necessitated the initiation of large and costly measures with a view to the training of the river, and provisional sanction has recently been given to estimates in connection with this work amounting to 92 lakhs, towards which the Government of India have contributed 25 lakhs and the Provincial Government has been permitted to advance a similar amount.

" Measures have recently been taken to standardise the procedure at the various Customs Ports in regard to the administration of the Merchandise Marks Act. The Government have approved of the issue of a Manual compiled under their authority which brings together the executive instructions issued from time to time for the guidance of Customs Officers in administering the provisions of the Act. This Manual will be of assistance to merchants, in presenting to them for ready reference in one authoritative compilation, the rules and regulations observed at our Customs Ports, and it will also have the effect of securing a very desirable degree of uniformity in the administration of the Act. A modification is to be introduced in the practice respecting the marking of specific indications of the country of origin on imported goods. The law requires that, when the name or trade-mark of an English or Indian manufacturer is marked on goods not made in England or India, there must be a counter-indication specifying by name the country in which the goods were made. Where, however, goods made elsewhere than in England or in India do not bear such a name or trade-mark, but are only marked with an expression or description suggesting an English origin, the law does not authorise the Customs authorities to insist on the marking by name of the country of origin, and any expression negativing the suggestion of English origin is, for legal purposes, sufficient. For instance, the use of such expressions as 'Made abroad,' 'Foreign made,' or 'Not made in England or in British India,' would be a sufficient compliance with the provisions of the law in the case of an article say, made in Germany, which bears an English expression. The practice at our ports has, however, not been in entire accord with the law. The Local Governments and Chambers of Commerce were consulted in regard to this modification, and I refer to it in some detail because the replies we received to our references suggested a certain misapprehension of the scope and purport of our proposals, and I hope that I have made it clear that the object of this modification is only to bring our practice into conformity with our law, and that no change in the latter is at present contemplated.

[Mr. Harvey.]

[27TH MARCH, 1908.]

"A brief reference may be made to two special matters which have formed the subject of discussion during the year, namely, the amendment of the law relating to patents, and the Assam Labour Law.

"The growth of manufactures and industries in India, and the consequent increase of the use of new processes and machinery, has directed more attention of recent years to inventions and designs in this country. The Act which regulates their protection was passed in 1888 and was founded in the main on the earlier Acts of 1856 and 1859 which in turn were based on the English Act of 1852. Since that date many further changes have taken place in the way that invention is regarded both from the standpoint of the inventor and the public, and it is proposed to take early steps to obtain sanction to legislation which will bring the present system more into line with the latest practice in the United Kingdom. Suggestions put forward by the Patents Secretary and considered by the Department have been carefully worked out by him and a draft Bill is now under preparation. This will, it is hoped, shortly be ready for examination, and when the necessary sanction has been obtained it will be submitted for the criticism of the manufacturing public.

"The orders recently passed on the subject of labour for the Assam Tea Gardens define the attitude of Government towards this question. The Act of 1901 is to remain in force in the Assam Valley for a period of two years, after which the question of its continuance on present lines will be taken into consideration. In the meantime the operation of the Act has been modified in two important particulars: the right of private arrest hitherto vested in employers has been withdrawn, and the taking of contracts in the labour-districts has been abolished. The object in view is gradually to introduce greater freedom in the management of labour on the gardens. The special Committee which enquired into the subject considered that in order to induce labour to move to Assam, relaxation of the existing conditions in these respects was necessary, and they also pointed out that the attractions to labour should be increased in order to enable the Tea industry to compete in the labour-market in the down country districts. The various suggestions made to this end it is for the industry to consider. The Government of India, while agreeing with the conclusion of the Committee that the minimum wage prescribed by the present Act is no longer an inducement to emigration, have, in view of the generally favourable opinion expressed by the Committee as to the material condition of the labourers in the Gardens, decided to leave the question of raising the wage to the industry concerned. In recruitment various changes have been introduced with a view to encouraging the emigration of labourers free of contract under the Act.

[27TH MARCH, 1908.]

[Mr. Harvey.]

"The question of withdrawing the Act from the Surma Valley presented difficulties which have led to the postponement of action in this respect. But it is intended presently to amend the law so as to enable a beginning to be made in selected tracts with entirely uncontrolled emigration to the Surma Valley districts.

"The reductions made during the year in the rates of inland postage have been accompanied by a remarkable increase of traffic in respect both of letters and of parcels, and we anticipate that the net cost, which was originally estimated at 15½ lakhs for this half-year, will probably not be more than half that amount.

"There has been a good deal of adverse criticism because the new contract with the Peninsular and Oriental Steam Navigation Company for carrying the Indian mails, which came into effect on 1st February last, provides for an acceleration of only eight hours over the transit timings hitherto in force between Bombay and Brindisi. I need hardly say that the Government of India entirely sympathise with the desire of the commercial community for a faster service, and have spared no effort in their attempts to secure this. We secured the insertion in the form of tender issued by the Post Master General, London, in August 1906, of a provision asking tenderers to state what subsidy they would require if a service 24 hours faster than that given under the former contract were introduced three years after the commencement of the new contract. The Peninsular and Oriental Steam Navigation Company was however the only responsible Company that tendered for the service, and they declined to comply with this request. They contended that the acceleration proposed would necessitate a very large expenditure on ship-building and that the incidental charges would be excessive. It might perhaps have been possible to extend the old contract for a further period of two or four years and to make a further attempt to obtain a 24 hours acceleration in 1910 or 1912. But it was very doubtful whether any responsible competitor would have come forward, and in the absence of real competition we should have been no better off four years hence than we are now. It was therefore decided by His Majesty's Government to close with the offer of the Peninsular and Oriental Steam Navigation Company, in the hope that this would be found the most effective measure towards obtaining a substantial improvement in the mail service on the next occasion on which tenders are invited.

"In the Telegraph Department the year has been characterised by the greatest activity. It was recognised soon after the introduction of the low tariff rates that the Department was not fully organised or equipped to cope with

[Mr. Harvey.]

[27TH MARCH, 1908.]

the enormous increase of traffic involved, and that very far-reaching reforms would be necessary before it could render to the public the service which the latter has the right to require. A Committee was appointed which submitted its report in April, and later in the year the services of a selected officer of the English Post Office were obtained in order that examination of all the details of the existing methods of dealing with traffic might be carried out. Time does not permit of my placing before you even a resumé of the evidence and reports which have been laid before us; they have been very voluminous and have been examined with care. We have come to the conclusion that the greatest fault to be remedied is the excessive delay which by ancient custom has come to be regarded as a normal feature of the service. As an illustration I would mention that the figures of delay in a large Indian office and a Home office, similar in respect of volume of work, have been compared, and it is a fact that while in the former only 8·2 per cent. of the messages were put on the wires within ten minutes of receipt in the office, and 57·6 per cent. were delayed over 40 minutes, in the latter 91·7 per cent. were being despatched within ten minutes. We have received convincing reports from Mr. Newlands, whose work has been invaluable, as to the causes of delay, which he attributes mainly to the excessive amount of clerical labour performed in respect of messages, unnecessary signalling operations, the compilation of useless returns, and to the fact that the hours of duty have not been arranged so that there may be a sufficient number of men during the busy hours to dispose of the traffic as it comes. These are defects which can be remedied, and it is hoped that the orders which have already issued in the direction of simplification will before long produce a very marked effect. There is no desire on the part of Government to exact too much work from the subordinate establishment, but it is a matter of common knowledge that the Department is already considerably overmanned. The new system of duties, when finally arranged, will not only greatly accelerate business, but will also materially reduce the amount of work done at night, and this will be understood before long. At the same time Government are aware that the present scales of pay are insufficient and that there have been in the past several legitimate causes of complaint. Some of these have already been remedied and action is being taken in respect of the others. A recommendation will shortly be made to the Secretary of State in respect of the pay of the staff. We recognise that special efforts will be necessary on the part of all concerned to carry out the reforms and to build up a telegraph service that will be capable of performing its proper functions. But we believe that the whole staff of the Department, superior as well as subordinate, will spare no pains in the endeavour to attain efficiency, and we look with confidence to the public for their assistance and perhaps

[27TH MARCH, 1908.]

[Mr. Harvey.]

or a time for some forbearance while the measures that have been devised in their interests are brought into full operation.

"The abolition of the office of Consulting Engineer on the 1st January 1908 marks a great change in the relations between Government and the Railway Companies and in the system of railway administration in India. Hitherto this officer has been the medium through which the control of Government over the Railway Companies, usually of a minute character, has been exercised."

"The proposal to give greater freedom to Companies originated with Mr. Thomas Robertson and is now being carried into effect. The duties of the Consulting Engineers as regards inspection have been transferred to Government Inspectors working directly under the Railway Board. Most of the powers of sanction which they formerly possessed, and extended powers similar to those vested in Managers of State Railways, have been delegated to the Companies' Boards. The appointment of Railway Secretary to the Local Government has been abolished in Bombay and Burma, but in Madras the Government Inspector will continue to hold that office, though without exercising the functions of a Consulting Engineer."

"It would be premature to pronounce any opinion on the new system after only three months' experience. We have every hope that it will prove a success and will promote efficiency, and we believe that the Companies will exercise their enlarged powers with discretion. Government interests will be safeguarded by means of the Inspectors working under the Railway Board and Examiners of Accounts, and we have reserved the power to make special arrangements should the circumstances of any line appear to require this course."

"One effect of the change will be that some of the Local Governments will have less direct responsibility for railway work than they have at present. But we have no desire to diminish in any way the legitimate influence of the Local Governments in the questions of railway policy in which they are interested. Railway Administrations have been instructed to keep in close direct communication with them in respect of all matters which are not of a technical character, and the Railway Board will welcome their advice and assistance."

"The disappearance of the last of the old Guaranteed Companies demands a word of notice. The Madras Railway, which was established in 1856, has always been an expense to the State, and we had, therefore, no hesitation in recommending to the Secretary of State that the line should be acquired at the earliest date which the contract allowed. The purchase was concluded last year and took effect from the 1st January 1908. As the existing

contract with the Southern Mahratta Railway Company terminated in 1907, and the contract with the South Indian Railway is to expire in 1910, the opportunity was taken to re-arrange the railway systems of Southern India, with the result that the Madras Railway, as a separate entity, has disappeared and has been absorbed in the South Indian, and Southern Mahratta systems. A reduction in the number of separate administrations was clearly required for purposes of economy and efficiency, for the Madras Railway had no room for expansion and none of the three systems could rank in mileage or in receipts with the great lines in other parts of India. The Southern Mahratta Railway Company has taken over the whole of the Madras Railway excepting the Jalarpet-Mangalore section (and branches) of the South-West line; and also the South Indian metre-gauge lines north of Katpadi. The South Indian Railway Company has taken over the Jalarpet-Mangalore line and has also been given running powers over the Madras-Bangalore section. The object in view in these arrangements has been to create two systems with distinct spheres of influence, within which they will be free to develop trade and to build extensions with as little risk as possible of creating excessive competition.

"The Railway Board's memorandum, which is attached to the Financial Statement, explains the programme which has been adopted for the coming year. It will be observed that the total has been maintained at 15 crores, a much higher figure than was at first anticipated. In pursuance of the deliberate policy which has been adopted, by far the greater part of the expenditure will be on open lines and rolling stock; the Board have provided for lines under construction 33·12 lakhs and for new lines 20 lakhs only. No provision was made in these estimates for the construction of the Lower Ganges Bridge, but since they were framed the sanction of the Secretary of State to the project has been received, and the Board will now issue orders for the commencement of the working survey and the preparation of construction plans and estimates. Sanction has also been given to the Irrawaddy Bridge at Sagaing and funds for the preliminary work will be provided from the grant for open lines.

"The Board have alluded to the difficulties experienced in working traffic, and it is a matter of common knowledge that the complaints have been as bitter and the discussions at meetings of public bodies and in the Press have been as acrimonious as before. In considering the position it must not be forgotten that there have this year been two special causes which have added very largely to the normal difficulties. The scarcity in the United Provinces has necessitated the transport of large quantities of grain to the affected areas there, and the strike on the East Indian Railway in November caused a retardation in the

[27TH MARCH, 1908.]

[Mr. Harvey.]

traffic which was bound to have effects lasting throughout the season. But the complaints have not been confined to Calcutta. Steamers have been detained at Karachi unable to discharge, and there have been most urgent requests for the transport of produce to and from that port and from the wheat-growing areas of the Punjab to the distressed districts of the United Provinces. Government do not conceal from themselves the fact that systematic measures are required to restore the balance. It is, however, impossible for them at the present time to do more than devote the funds at their disposal towards the amelioration of existing conditions. As Hon'ble Members are aware, a Committee was appointed last year by the Secretary of State to enquire into Indian railway affairs and the terms of reference were wide enough to cover the whole range of traffic facilities and the methods of financing schemes for their improvement. The Government of India have not seen the evidence that has been placed before that Committee, but they understand that comprehensive and detailed proposals have been put forward by witnesses and public bodies representing commercial as well as railway interests, and it is obvious that their report, which, it is believed, has been submitted to the Secretary of State must be awaited. It is hoped that their proposals will provide a satisfactory working scheme; but if these require to be elaborated or supplemented, the Government of India will be prepared to institute the local enquiries that were asked for last year, and to invoke the assistance of representatives of the commercial community in making them. In the meantime I will refrain from repeating figures already given by the Board, and will only claim that Government have not failed to devote the maximum amount at their disposal to the improvement of traffic conditions on existing traffic routes.

"The Hon'ble Mr. Finlay suggested last year that a solution of some of the difficulties connected with the wagon supply might be found in a system of private ownership. He subsequently discussed the matter very fully with the Agents of the East Indian and Bengal-Nagpur Railway Companies; but I am sorry to say that the result of these discussions has not been very favourable to the proposal. Both the Companies object in principle to the private ownership of wagons, and there is no doubt that the difficulties in the way of any general introduction of such a system are of a very serious character. English railway opinion is now very strongly against it, and I understand that the English Railway Companies would be glad to get rid of the private wagons at once. To a limited extent, however, private ownership might be permitted under conditions which would not be open to the objections which have been raised. An arrangement has been made between the East Indian



and another Railway, under which the latter supplies 150 wagons for the carriage of the coal required by it. This is not regarded as objectionable because the wagons can be run to and fro between fixed points in rakes of 50 wagons or so at dates which can be arranged between the Coal Company and the two Railway Companies. The Bengal-Nagpur and East Indian Railway Companies are willing to extend the same facilities to Railways generally, and the Railway Board have been asked to move the two Companies concerned to deal in the same way with the larger Coal Companies which can work under similar conditions.

"The Hon'ble Mr. Aparcar has referred again to the desirability of encouraging wagon-building firms in this country, and I can assure him that Government as well as the Railway Board are most anxious to give all the assistance in their power, subject of course to the condition that *bonâ fide* manufacturing work is carried out and that rolling stock is not imported in a practically finished state for the purpose of fulfilling contracts. The Hon'ble Mr. Finlay mentioned last year that State Railways had been instructed to invite tenders locally for 25 per cent. of their requirements. There has been no reversal of this policy, and the Railway Board have done all in their power to induce railway companies, which occupy a position of independence as regards sources of supply, to follow their example. The specific instances brought to notice by the Hon'ble Member will now be enquired into.

"There are several other railway matters which I should have liked to mention in a little more detail had time permitted, such as the recent strikes and the steps that have been taken to form Boards of Conciliation, the projected railway connection with Ceylon, and the proposals which have been made to Government by several Companies for the purchase or lease of certain of the State lines. I may say, however, with regard to the last of these that negotiations have not yet reached a stage at which any public announcement could be made, and that it is the desire of Government that mercantile opinion in Calcutta should be consulted before any decision regarding the transfer of the Eastern Bengal State Railway to a Company is arrived at.

"In conclusion, my Lord, I should like to say a few words regarding industrial progress in India. Though the exports of coal and manganese-ore show a tendency to decline, there is no sign of any check in the development of the mineral resources of the country. The figures for the production of coal, in the calendar year 1907 as returned by mines subject to the Mines Act, have advanced by nearly one and a half million tons, and the returns of mining concessions granted point to a great activity throughout the country. The

[27TH MARCH, 1908.] [*Mr Harvey; Mr. Miller.*]

total number of concessions relating to Government lands, excluding those granted in the permanently settled districts and in Native States, was 252 in 1906, while for the three quarters of 1907 the large figure of 409 has been reached, the increase being most marked in the Central Provinces, which accounts for nearly one-half of the concessions recorded. In Bombay there has been an extraordinary advance in prospecting operations.

"Government have received various suggestions for modifications of the rules under which mining concessions are granted, and it was decided to entrust the revision of these rules to a small informal Committee. This Committee has just sat and its recommendations will be circulated for opinion among the Local Governments and Commercial Associations interested, and, on consideration of the replies, the Government will submit their proposals to the Secretary of State with whom the final decision lies.

"We look forward confidently to the time when the industries of the country will absorb a much larger proportion of its mineral products than at present, and it is gratifying to know that the project for the establishment of large iron and steel works near Sini on the Bengal-Nagpur Railway, which was referred to at length by the Hon'ble Sir John Hewett in the Budget debate in 1906, has passed through the preliminary stages and that work is rapidly progressing. Government have committed themselves to the grant of substantial assistance to this scheme and it will be a pleasure to them if their aid is further invoked towards the inauguration of other industrial enterprises. The Lieutenant-Governor of the United Provinces, who evinced the keenest interest in this subject while in charge of the Commerce and Industry Department, has made comprehensive proposals to give effect to his policy in those Provinces. In several of the other Provinces also active measures are being taken towards carrying out industrial surveys and advancing technical education, and we have every reason to expect that before long the general movement in this direction which we are most anxious to promote will have made material progress. I would, however, invite the attention of Hon'ble Members who have referred to this subject in the debate to the speech to which I have just alluded. Government have already done a great deal and are anxious to do more, but it is only with the co-operation of the people themselves and active assistance from the capitalists of the country that great results can be attained.

The Hon'ble MR. MILLER said :—"My Lord, in October last year at Simla, I made a statement in this Council regarding the imminence of the famine to which so many references have been made today.

"At that time it was difficult to foresee how large a part of the country would be seriously affected. It seemed possible that severe distress amounting to famine would spread over the greater part of northern and north-western India and far to the south. Fortunately this has not been the case. There has been and is distress which is acute enough to give cause for anxiety over a very large part of the country; but except in the United Provinces and some of the neighbouring tracts, the conditions are those of scarcity, not of famine. The rainfall in those parts was, as I explained in October, only half the normal, in individual places much less; the autumn crops failed altogether or were miserably poor, and no human power could ward off a famine of very considerable intensity. Relief measures were, however, taken with a promptitude which has earned the gratitude of the people, and at the same time has inspired them with a confidence at once in the Government and in themselves. Revenue was freely suspended; advances for the construction of wells and other agricultural purposes were made on a large scale; gratuitous relief was given where necessary, and all preparations were made to cope with any rush there might be for work provided by the State. No such rush occurred; however, at the outset, and the numbers of the famine-stricken mounted at first more gradually than in some previous famines; at the end of December the total number of persons on relief in the United Provinces was only 101,915; but there was then a rapid increase and at the end of January the number was 492,748; by the middle of February it had risen to 919,873; at the beginning of March to 1,332,449; while the latest figures are 1,382,780.

"In ordinary course there should now be some diminution, but when the harvest is over there must be a return to the works, and no reduction in the scale of relief can be expected till the rains are well established. In the Punjab the Delhi Division suffered equally with the United Provinces, but relief works were not found necessary till the end of January, and even now they fail to attract labourers, only 1,235 being employed according to the latest returns. In the Panch Mahals District in Gujerat the conditions are much the same as in the Punjab. Test works are open, but only 2,965 persons are employed on them. The Central Provinces received some welcome rain in November and timely rain later on which considerably eased the situation there, and it has been found possible up to the present to avoid any large recourse to relief works by general suspensions, by the grant of loans, by providing a comparatively small amount of gratuitous relief, and by expanding the ordinary programme of public works. In Orissa, famine conditions have been caused by drought following on floods, but the able-bodied labourers of those parts find work in Calcutta or elsewhere, and the scarcity wages given on test works do not attract them. It

[27TH MARCH, 1908.]

[Mr. Miller.]

has been found necessary to give gratuitous relief somewhat freely to the families of those who have migrated in search of work. In Ganjam it has recently been found necessary for similar reasons to open test works. In the States that lie south of the United Provinces there has been the same disastrous failure of crops as within our own borders, and the rulers of those States appear to have met the situation in a liberal and determined spirit. No less than 135,500 people are now in receipt of relief in those States—a large number for those thinly populated tracts.

“ In the whole of India the numbers on relief, according to the latest returns, reached a total of 1,558,439. These are large figures, but to anyone who will compare the rainfall statistics of the last monsoon with those of 1896 and 1900, it will be a matter for surprise that they have not been far exceeded, and we may find some cause for satisfaction in the absence of the worst forms of distress that were formerly regarded as inevitable in times of drought. How far these results are due to the promptitude with which relief was given, how far to the people being better off, and how far to altered conditions of labour must be a matter for speculation. Probably all these causes were at work.

“ The Hon'ble Mr. Gokhale takes strong exception to the assumption that there has been any development of the resisting power of the people, and he quotes the opinion of the Famine Commission of 1898 that up to that time there was a large and possibly increasing section of the community,—the great class of day-labourers and the least skilled of the artisans,—who were if anything less well to do than ever. The question is an important one, and at the same time very interesting. I should have been glad if the Hon'ble Member had been able to throw the light of any fresh facts on it. For my own part, after carefully watching the progress of relief and studying all the evidence available, I have formed quite a different conclusion from his. No doubt when we compare the present with past famines we must take account of the comparatively limited area in which distress is now acute, and of the liberality with which relief was given, to which I am glad to see that the Hon'ble Member makes appreciative reference. But allowing for this, and also for the fact, which I think is fairly certain, though the Hon'ble Member challenges it, that the agricultural condition of the greater part of the severely affected tracts was better than in 1896, I find it impossible to resist the weight of evidence that comes from all quarters of the improved position of the labourer. How is it that in this famine following on an extraordinarily poor and ill-distributed rainfall, with prices at a height above even the range of 1897, there are at this critical period of the season so few of the worst features associated

with famine? How little do we hear of the gangs of wanderers spreading over the country and of the increase of crime; how few comparatively are the paupers in the poor-houses? In the United Provinces the poor-house population was only 5,165 on March 14th as compared with 45,000 at the same time in 1897. The main cause I have no doubt is to be found in the increasing demand from all quarters for labour, and in the consequent rise of wages. This is to my mind the most important economic feature of the present day in this country, and I am sorry to find that so acute an observer as the Hon'ble Member should take a different view.

"It is not merely in the towns that higher wages are to be had. The members of this Council who are landowners will bear me out as to the much better terms which the agricultural labourer now demands and receives. The conditions of India have changed or are changing, and even in time of famine the labourer who chooses to go in search of work can find it on better terms than on relief works. That is why in Bengal, the Central Provinces and Bombay the number of labourers on test works is so small. In Bengal, difficulty has been experienced in obtaining the labour required for ordinary road works at the usual rates, owing to the great industrial development in and near Calcutta and in the mining districts. In the Central Provinces, private employment has not slackened off to the same extent as in previous scarcities, while employment has been found on ordinary public works for about 40,000 more labourers than usual. In Bombay, it is difficult to secure labourers for the irrigation works in the Deccan where over 10,000 men are at work, and a large supply of outside labour is absorbed by Bombay itself. The classes most affected in that Presidency are the hill and wild tribes of the Panch Mahals and West Khandesh. In the Punjab the supply of labour is barely sufficient for the large canal projects and railway and other works that are under construction. Even in the tracts where famine is most severe—in the United Provinces and Central India—it is found that the ordinary demand for labour is greater than it was in previous famines, and the problem of dealing with famine is thus to some extent simplified.

"The great increase in the wages of labour is a matter of almost universal experience, and the only evidence I have come across to the opposite effect comes from the outlying tract of Ganjam in Madras.

"The Hon'ble Mr. Chitnavis has referred to the distress caused by high prices. This is a feature of the present day, the effect of which we fully recognise. It is not so much that a high scale of prices is in itself objectionable; it is the change from one scale to another that creates hardship. It is undoubtedly the case that the very high range of prices has caused much

[27TH MARCH, 1908.]

[Mr. Miller.]

privation and distress amongst the classes above the labourers, and these are the classes for whom it is difficult to provide State relief. On this account the scope of gratuitous relief has been widened, but the Council will recognise the risks inevitable in extending the help of the State too liberally where no definite test of its necessity can be applied, and in such cases there is a wide field for the judicious exercise of private benevolence, which has already shown its readiness to assist.

“The good effect of the liberal suspensions of revenue has been recognised on all hands, and I am surprised to find that the Hon'ble Mr. Chitnavis draws from this policy the argument that the land is assessed to its utmost limit. Such criticisms will not affect the development of the more liberal and elastic policy in land revenue administration on which the Government of India have laid so much stress in recent years. Mr. Chitnavis has also referred to the burden of the assessment in his own province. He says that there is no margin left for the accumulation of capital for industry. My Lord, if the employment of indigenous capital in industrial enterprise is to be taken as the measure of the lightness of assessments, then I have no hesitation in saying that, considering their natural resources and population, the Central Provinces and Berar have a good claim to be ranked amongst the most lightly assessed tracts in the country.

“The distress must inevitably continue, and in some parts it will deepen, until the monsoon is well established. The condition of the spring crops up to a recent date was promising in a considerable part of Upper India, but the area on which those crops have been sown is much below normal. Taking both area and condition into account the most sanguine estimate puts the outturn at three-quarters of the normal, other estimates go as low as a half. Much will depend in the future course of prices, and on the outturn of the mahua and mango crops. If we are fortunate, in these two respects, no great increase in the numbers on relief need be anticipated in the United Provinces. In Bengal, a few additional districts will probably require assistance before the rains come, and in the Central Provinces an expansion of relief measures may be necessary in the upland districts and in Chattisgarh. It does not at present appear probable that any considerable extension of relief will be necessary in either the Punjab or Bombay, and any distress in Madras will, it is hoped, be confined within a limited area in the extreme north of the Presidency.

“There has been comparatively little complaint on this occasion of severe scarcity of fodder. The resources of the forests have been utilised as far as

possible and the railways have given special facilities for transport at cheap rates. It will be interesting to know how far advantage has been taken of these, and whether there has been any marked development of private enterprise in supplying the demand for fodder.

“There have been so many failures of the rains in the last ten or twelve years that it may interest the Council to know that a careful analysis of rainfall statistics was recently made to ascertain whether they showed any signs of permanent change in the seasonal conditions of any part of India. For such purpose a very long and accurate series of statistics is necessary. Thirty years or fifty years is a short time in the history of a country, and it would require a longer series of accurate observations than we possess to justify any confident deductions. But generally it may be said that in Bengal, Assam, Burma and the greater part of Southern India the returns give no indication of any change. In North-West and Western India down as far as Guzerat the rainfall showed a tendency to increase up to about 1894, reaching a maximum in different places between 1892 and 1894. Thereafter it diminished the minimum being reached in 1899, after which there was again an improvement. The figures of the present year will do much to blot out the evidence of that improvement, but it is worth noticing that up to 14 years ago the statistics pointed rather to an increasing than to a diminishing rainfall.

“The Hon'ble Munshi Madho Lal has given prominence in his remarks to some figures taken from a newspaper of the number of famines. I had noticed them myself and had the curiosity to examine them, and it is perhaps as well that the methods in which such statements are compiled should be understood. The original statement was in these terms:—

“From 1800 to 1850 there were seven famines; during the next twenty-five years there were six, while the last quarter of a century claimed no less than nineteen.”

“Every one knows that from 1878 to 1896 the country enjoyed a remarkable immunity from serious and widespread famine, and the Hon'ble Member may well hesitate to accept the figures. He will be relieved to know that the comparison is grossly misleading. The statistics for the last quarter of the century appear to be taken mainly from the Famine Commission Report of 1898. On one page of this there is a tabular statement of 14 famines that occurred from 1884 to 1892 inclusive. These are arranged by Provinces on the principle of one Province one famine, and so we have fourteen famines in nine years. The years 1890, 1891 and 1892 account for no less than seven of the fourteen famines. On this principle we have five or six or possibly more

[27TH MARCH, 1908.]

[Mr. Miller.]

famines in progress in India at the present time. It will at once be asked whether the same method of calculation was adopted for the figures given for the earlier periods. It was not. The Famine Commission of 1880 proceeded on a different principle, and the figures now given agree with its report. For example, the famine of 1812-13 which extended from Bombay to Rajputana and Upper India counts as one famine only, and similarly the famine which affected Madras in 1823, Bombay in 1824 and Upper India in 1825 is reckoned only as one. So in the second period the great famine of 1868-1869 which affected Rajputana, Central India, the Upper Provinces, the Central Provinces, Guzarat and the Deccan counts as one famine only. That famine affected 300,000 square miles of country. The largest of the 14 tabulated by the Commission of 1898 affected less than a tenth of that area, and the smallest less than a thousand square miles. I hope that this explanation will remove any doubt from the Hon'ble Member's mind as to the value of the statistics he was led to quote.

"It is possible that this idea that famines have for over a quarter of a century been continually increasing in number that has led to the numerous requests for enquiries of which we now have the following before us:—

an enquiry into prices;

an enquiry into the question of food supply;

a complete investigation into the whole subject of famine;

an enquiry into the condition of typical villages.

"It has already been stated that the Government have had under consideration the question of making an enquiry with reference to prices. As regards the other proposals I would merely say that the Government does not shrink from an enquiry into its famine policy, but it must be satisfied that definite practical advantage will result before it agrees that enquiry is advisable.

"When droughts unfortunately come we cannot, in a country where agriculture is so largely dependent on the rains, and where the people are so largely dependent on agriculture, prevent much hardship. But in many ways much has been done to minimise the effects of drought. The most important work of Government in this direction is indirect. It establishes tranquillity and leaves every man to reap the result of his own labours. But there is also a large field for direct action, and I wish to-day to allude briefly to the official work that is being carried on in the Agricultural, the Forest, and the Public Works Departments.

"Ten years ago the expenditure on agriculture for the whole of India was under five lakhs of rupees. In recent years, as the Council are aware



a more active policy has been initiated, and important developments are now in progress. The accounts for 1906-07 show an expenditure of  $17\frac{1}{2}$  lakhs, and the Budget for the coming year amounts to nearly  $27\frac{1}{2}$ , while the Budget of the Civil Veterinary Department has in the same time risen from Rs. 5,91,930 to Rs. 15,81,000. By far the greater part of this expenditure is under the control of the Provincial Governments. It is not much for the whole country, but the Provincial organisations have now obtained a start which will lead to a rapid development as soon as the necessary staff can be trained. The field before the Agricultural Department is a very wide one; it is not merely to the improvement of existing methods that we have to look; a wider and often more directly useful opening is often found in the combating of disease and of pests. To take one example, the research work of Dr. Butler has shown how to combat the palm disease in the Godaveri Delta which had spread over hundreds of square miles and caused a loss of lakhs of rupees. In the Veterinary Department inoculation against rinderpest has attained a success which is not only attested by official reports, but is confirmed by the growing popularity of a remedy that was at first regarded with suspicion. Similar problems await investigation in all directions and our efforts ought to be devoted to training the staff to deal with them. This work of training is the most important that now lies before the Agricultural Department, and the colleges which are springing up in the different Provinces will, if I am not much mistaken, be thronged by an eager crowd of students—such as one can already see in our Veterinary Colleges. The next matter of importance is to get into touch with the cultivators, who may have much to learn but have also much to teach, and much prominence was wisely given to this question at the recent Agricultural Conference at Pusa. I had an opportunity also when in Bombay, where the Agricultural Department has from an early date been developed on progressive and practical lines, of attending an interesting meeting where the officers of the Department, representatives of the cultivators in the districts, and representatives of trade and commerce were all brought together. All these attempts to establish relations with the cultivator and with those who can influence the cultivator are to be warmly welcomed; all projects for the improvement of agriculture are impracticable that do not take account of his methods and traditions and capacity. At a time when the popular demand is for technical and industrial education with a view to the development of manufacture, it is well to remember that much as industrial development is to be desired, and great as are the benefits which variety of occupation has already conferred and will in increasing measure confer on the country, still the great industry and interest of India will always be the agricultural one. Even in America, a railway

[27TH MARCH, 1908.]

[Mr. Miller.]

magnate recently warned the people of the dangers of forgetting the importance of agriculture. 'There must be,' he said, 'a re-adjustment of national ideas such as to place agriculture and its claims to the best intelligence and the highest skill that the country affords in the very forefront.' In India it is still more necessary to enlist the best skill and intelligence, and I trust that we shall not fail in doing so and in making the most of it.

"For years, as the Council is aware, the question of providing capital for the agriculturist has been under consideration. Within certain limits much has been done by Takavi loans, but though these provide valuable assistance at a cheap rate, the system is a purely official one; it has no educative effect, and its expansion on a great scale would involve much official intervention. How to provide capital, while at the same time encouraging thrift, is the problem for the solution of which the scheme of Co-operative Credit Societies was introduced some years ago. The Government refrained from any over-sanguine estimates of the result; it recognised that success was doubtful and that progress must be slow. Progress has, however, been more rapid than was anticipated. The number of registered Societies is now 846, the number of members 90,000, and the capital 21 lakhs. There is every reason to be satisfied with the results, and to hope that the system, which is now arousing the active interest of the non-official public, will take root, and if it does take root it will spread rapidly. The Registrars in some Provinces indeed have been obliged to moderate the enthusiasm they met with, and to deprecate the formation of too many Societies. Mr. Rajagopala Charriar, the Madras Registrar, is of opinion that Co-operative Societies have undoubtedly come to stay; the Bombay Government think that the movement shows every indication of growing into a well-developed system. In Bengal the lines on which progress is being made appear to be eminently sound and eminently successful in attracting non-official co-operation. In the United Provinces the stage of the foundation of District Banks to which the local societies are affiliated has been reached; everywhere the reports are most hopeful regarding the future expansion of the movement. The present year will undoubtedly be one of stress and trial for the Societies, which have not yet had time to build up Reserve Funds, and it is well not to take too sanguine a view of their future. But all the indications go to show that under the guidance of those who are themselves convinced of its possibilities, co-operation gives every promise of attaining a much more vigorous growth on Indian soil than any one at the start ventured to anticipate.

"Under the head of Forests for the coming year the Budget provides for an expenditure of 150 lakhs and for receipts of 276. The total area of Reserved and

[Mr. Miller.]

[27TH MARCH, 1908]

Protected Forests now amounts to 102,514 square miles, and there is a further area of 131,137 square miles known as 'Unclassed Forests'. This is a branch of administration the importance of which is certain to go on increasing. I do not refer to the importance of its contributions to the Treasury; they are not to be neglected, but they represent only a small part of the benefits to the country which Forestry confers. The necessity for the preservation of forests for climatic reasons is every year becoming more widely recognised, as the emphatic remarks which have been made by the Hon'ble Tikka Sahib of Nabha show. This is the one Department to which we may look for some direct effect in preventing drought. I do not mean that forests will necessarily increase the actual rainfall in the country as a whole. It is not merely the total rainfall that we have to consider, but its distribution and the retention of moisture in the soil, the prevention of floods and of the erosion of mountain slopes, the maintenance, as far as possible, of a continuous and equable flow of water in our rivers and streams. The benefits of Forestry in these respects cannot be easily measured, and next to them may be placed the necessity of maintaining a continuous supply of forest products for the use of the agricultural and other industries of the country. For this purpose it is unfortunately necessary to place restrictions on the access allowed to the forests; the very existence of the forests is incompatible with unlimited rights of user: you cannot both eat your cake and have it. Hence it is that we hear of the oppressiveness of forest regulations; they must necessarily be to some extent oppressive when forests were formerly treated as if they formed an inexhaustible source of supply. But experience in the best administered forests goes to show that by the exercise of tact and sympathy, by careful attention to the real wants of those who live in their immediate neighbourhood, and by strict control of the subordinate establishments and improvement in the class of men employed, it is possible not merely to avoid friction and causes of grievance, but even to interest the local population in the management and maintenance of the forests.

"We have now established a Forest Research Institute at Dehra under a body of capable workers, and there is no service more enthusiastic in the prosecution of their work than the officers of the Forest Department. They will now be able to work out in the country itself the higher problems of Indian Forestry, and to give to the future staff of the Department that higher training for which, in the future, there is certain to be a great demand."

"Before referring to the Irrigation and Roads and Buildings Branches of the Public Works Department I should like to allude to the value in times of famine of the development of our Railway system. Without the railways our

[27TH MARCH, 1908.]

[*Mr. Miller.*]

famine administration could not hope to be successful. I am informed that in the month of February the imports of food-grains into one district in the United Provinces amounted to half a pound per day per head of the whole population. There are 200,000 people on relief in that district, and had the railway not existed, or had trade been fettered, a large proportion of the population must have been on the brink of starvation. This aspect of the case is often referred to, but there is another of much, though not of equal, importance, namely, the facilities which the railways give to the transport of the labourer. Owing to them the aimless wandering of the famines of earlier times is now being replaced by an ordered emigration of the able-bodied to those parts of the country where labour is in demand. The extent to which this proceeds even in ordinary times is surprising, and the readiness of the Indian labourer to leave his home in search of wages is not often realised. Not only is there a constant coming and going to the great trade and mining or manufacturing centres where labour is always in demand, but the surplus population of congested districts finds a profitable field for its energies in temporary migrations at the time of harvest to such places as the rice tracts of Bengal and Burma or the cotton country of Berar.

“Turning now to Irrigation, not many years ago it was thought that we were approaching the limit of productive irrigation schemes in this country, but the Council are aware how the horizon was widened by the report of the Irrigation Commission and by a less strict policy as to the direct remunerativeness of irrigation works constructed from public funds. We still, however, draw a clear line of distinction between productive works which are commercially paying, and protective works where we have to look largely to indirect benefits. The former class are constructed almost entirely from loan funds and there is never any difficulty in obtaining such funds as the strength of our establishment and the conditions of the labour market enable us to spend. From 1900 to 1906 the expenditure on productive works was as a rule about 80 lakhs a year. In 1906-1907 it rose to 100, in 1907-1908 to 130, while for the coming year the budget is for 150 lakhs, or a million sterling. Statistics of Irrigation works are given already in so much detail in the Financial Statement that I do no more than invite the attention to them of those members of Council who are interested in the great development of the wealth of the country that is due to the prosecution of productive canal schemes.

“For protective works the purse-strings are naturally more jealously guarded and we must expect that policy to continue until the works have demonstrated their utility in years of drought. The total grant that may be made available for such works is 75 lakhs of rupees, and this amount may be reduced by any sums

spent on famine, a condition that is fortunately not interpreted too rigorously. Hitherto we have been unable to work up to the 75 lakhs limit. Investigations of projects take time, and where works are not directly remunerative, careful discrimination is necessary in deciding to which preference should be given on account of the indirect benefits to be expected. The following figures will, however, show the rapid development of protective schemes.

"In 1900 the total expenditure on protective works was under five lakhs of rupees. After that date it rose gradually to 53½ lakhs in 1906-07; in the present year it is expected to reach 61 lakhs, and for next year the budget is placed at 60 lakhs, which is all that could be allotted in the unfortunate financial conditions that prevail. From the administrative point of view there are great objections to curtailing expenditure on these works when famine threatens. The works provide a useful outlet for labour, and labour is at such times comparatively cheap, while delay in construction means loss in many ways. When the larger projects are sanctioned, the means by which a definite allotment can be secured from year to year undisturbed by the accident of famine will require serious consideration. Amongst the largest protective works suggested by the Irrigation Commission were two great canals in the Madras Presidency—the Tungabhadra and the Kistna; but investigation has as yet failed to show that these can be constructed at a permissible cost. In other cases, however, the prospects of protective works appear, especially in Bombay and the Central Provinces, to be much more promising than the Commission ventured to anticipate, and the field for useful work in this direction gives every promise of being a wide one. I have no doubt myself that these works will establish their value, and that we may look in the future for further developments when the Irrigation Commission's twenty-year programme comes to an end.

"The operations of the Buildings and Roads Branch of the Public Works Department are not often mentioned in a Budget discussion. Perhaps that is partly because there is nothing to be said for it as a direct contributor to the receipt side of the estimates; but the main reason is doubtless that its operations affect the Imperial estimates to a comparatively small extent. It is a spending Department, but its expenditure is mainly Provincial or Local. At the same time there are few Departments of which the operations more directly affect every branch of the administration than Public Works; there are for example 165,000 miles of roads in its charge; and it is a satisfactory sign of progress that funds have been placed at its disposal on an increasingly liberal scale in recent years, for it is the first Department to be called on for retrenchment when the finances are suffering. In 1906-07 the total

[27TH MARCH, 1908.] [Mr. Miller; Sir Harvey Adamson.]

Provincial and Imperial expenditure was over six crores of rupees or four millions sterling. Ten years before (a year of famine) the expenditure was a little under three crores, and the great development is no doubt directly due to the more liberal assignments which Local Governments now enjoy. The Budget for the coming year provides for an expenditure of a little over 6½ crores. A complaint is made by the Hon'ble Member for Burma of the insufficiency of funds for the development of his Province. The needs of Burma are no doubt great, but most Provinces would consider themselves fortunate if they could afford to spend 108 lakhs on Provincial public works as Burma proposes to do in 1907-08.

"The development of the country has recently been so rapid that there is no limit but that of finance to the work of the engineer. In the districts, better communications, which in some provinces are even now lamentably backward; everywhere, better buildings for schools and colleges, for medical relief, for the offices of every Department; in towns, improved water-supply and drainage;—in every direction there are demands which must be met, and the meeting of which depends on the engineer.

"And similar remarks apply to the other Departments I have dealt with. They are all Departments of which the operations must greatly expand in the future; they are all hampered by the difficulty of obtaining a qualified and trustworthy staff; they are all closely bound up with the welfare of the country, and offer promising avenues of employment to its educated youth. In all cases, too, we are endeavouring to improve the opportunities for obtaining a higher training in the country itself; for making India as far as possible self-supporting; and the day must come when those who go through that higher training and prove their fitness in actual work, will find the higher posts opening to them in a more liberal measure than is now possible."

The Hon'ble SIR HARVEY ADAMSON said:—"My Lord, the Hon'ble Mr. Apcar and the Hon'ble the Maharaja of Darbhanga have referred to the delay in bringing into operation the Calcutta Improvement Scheme. I confess that when a year ago I reported progress in this Council I hoped that things would move faster. But I can assure Hon'ble Members that the papers were not put in a pigeon-hole to be drawn out with a sigh a year later when further pressure was brought to bear. The fact is that the constitution of the Government of India does not admit of big schemes involving varied interests being carried through with great celerity. It takes some time to reconcile the various interests of the Departments of the Government of India and of the Local Government. Nor is this all. India is ruled from England, and when we

[ *Sir Harvey Adamson.* ] [27TH MARCH, 1908.]

have ourselves fully made up our minds, as to the course which should be adopted in a costly and complicated measure such as the Calcutta Improvement Scheme, the whole matter has to be negotiated again with the Secretary of State before any action can be taken. We lost no time in putting our matured views before the Secretary of State, but under the circumstances delay is unavoidable, and it is not unreasonable in the case of a scheme which is calculated to cost over 800 lakhs of rupees, to involve a large amount of new taxation, and to require special legislation. A few days ago we received a communication from the Secretary of State, in which he reviewed our proposals and agreed with most of them. I do not propose to enter into a lengthy explanation today. I may mention, however, that the Secretary of State has consented under certain conditions to a recurring grant-in-aid of  $1\frac{1}{2}$  lakhs for sixty years in addition to the original contribution of 50 lakhs. The next step will be to prepare the legislative measure requisite for carrying out the scheme, and I am afraid that this will also have to be seen by the Secretary of State. I can make no promises. There is still much to be done before the spade can be put to the earth. But I can say this much that no delay has occurred during the past year or will occur which is unavoidable in view of the essential difficulty of the problem and the number of interests involved.

"I propose to say a few words on a subject on which volumes have been written during the past few years—the separation of Judicial and Executive functions in India. In 1899 the Secretary of State forwarded to the Government of India a memorial signed by ten gentlemen, seven of whom had held high judicial office in India, in which the memorialists asked that a scheme might be prepared for the complete separation of Judicial and Executive functions. They based their condemnation of the existing system largely upon notes illustrating its alleged evils, which were compiled by Mr. Manomohan Ghose, a barrister in large criminal practice. The memorial was referred to Local Governments and to high judicial officers in India for report, with the result that an enormous mass of correspondence has accumulated. This correspondence disclosed a decided preponderance of opinion in favour of the existing system, but whether it was the weight of the papers or the weight of their contents that has so long deferred a decision of the question is more than I can say. The study of the correspondence has been a tedious and laborious process, but, having completed it, I am inclined to think that the consensus of opinion against a change may have been due in great measure to the faulty presentation by the memorialists of the case for separation, as well as to the obvious defects of the constructive proposals put forward by them, which were shown by the Government of Bengal to be likely to cost many lakhs of rupees in that province alone.

[27TH MARCH, 1908.] [Sir Harvey Adamson.]

The authors of the memorial, in my view, put their case very feebly when they rested it on a few grave judicial scandals which were alleged to have occurred from time to time. It was easy to show that many of these scandals could have occurred even if the functions had been separated. Many who have reported their satisfaction with the existing system have followed the memorialists and been impressed by the comparative infrequency of grave judicial scandals in India having their cause in the joinder of functions, and by the certainty of their being exposed to light and remedied. Scandals may to some extent exemplify the defects of a system, but there can be no doubt that, whatever system be adopted, scandals must occur. Occasionally, very rarely I hope, we find the unscrupulous officer, less infrequently we find the incompetent officer, but not so seldom do we find the too zealous officer, perfectly conscientious, brimming over with good intentions, determined to remedy evils, but altogether unable to put into proper focus his own powers and duties and the rights of others. With officers of these types—and they cannot be altogether eliminated—occasional public scandals must occur, not only in India, but elsewhere, as a perusal of any issue of *Truth* will show. I see no reason for believing that they occur more frequently in India than in England or any other country; but this at least may be said for the Indian system of criminal administration, that in no country in the world is so perfect an opportunity given for redressing such scandals when they occur.

“ But though the preponderance of opinion in the correspondence is as I have stated, a deeper search reveals considerable dissatisfaction with the existing system.” This is expressed chiefly in the reports of judicial officers. The faults of the system are not to be gauged by instances of gross judicial scandals. They are manifested in the ordinary appellate and revisional work of the higher judicial tribunals. In one case a sentence will be more vindictive than might have been expected if the prosecution had been a private one. In another a conviction has been obtained on evidence that does not seem to be quite conclusive. In short, there is the unconscious bias in favour of a conviction entertained by the Magistrate who is responsible for the peace of the district, or by the Magistrate who is subordinate to that Magistrate and sees with his eyes. The exercise of control over the subordinate Magistrates by whom the great bulk of criminal cases are tried is the point where the present system is defective. This control indirectly affects the judicial action of the subordinate Magistrates. It is right and essential that the work of the subordinate Magistrates should be the subject of regular and systematic control, for they cannot be relied on more than any other class of subordinate officials to do their work diligently and intelligently without it. But if the control is exercised by the



[*Sir Harvey Adamson.*] [27TH MARCH, 1908.]

officer who is responsible for the peace of the district there is the constant danger that the subordinate Magistracy may be unconsciously guided by other than purely judicial considerations. I fully believe that subordinate Magistrates very rarely do an injustice wittingly. But the inevitable result of the present system is that criminal trials, affecting the general peace of the district, are not always conducted in the atmosphere of cool impartiality which should pervade a Court of Justice. Nor does this completely define the evil, which lies not so much in what is done, as in what may be suspected to be done; for it is not enough that the administration of justice should be pure; it can never be the bedrock of our rule unless it is also above suspicion.

“Those who are opposed to a separation of functions are greatly influenced by the belief that the change would materially weaken the power and position of the District Magistrate and would thus impair the authority of the Government of which he is the chief local representative. The objection that stands out in strongest relief is that prestige will be lowered and authority weakened if the officer who has control of the police and who is responsible for the peace of the district is deprived of control over the Magistracy who try police cases. Let me examine this objection with reference to the varying stages of the progress of a community. Under certain circumstances it is undoubtedly necessary that the executive authorities should themselves be the judicial authorities. The most extreme case is the imposition of martial law in a country that is in open rebellion. Proceeding up the scale we come to conditions which I may illustrate by the experience of Upper Burma for some years after the annexation. Order had not yet been completely restored and violent crime was prevalent. Military law had gone and its place had been taken by civil law of an elementary kind. District Magistrates had large powers extending to life and death. The High Court was presided over by the Commissioner, an executive officer. The criminal law was relaxed, and evidence was admitted which under the strict rules of interpretation of a more advanced system would be excluded. All this was rendered absolutely necessary by the conditions of the country. Order would never have been restored if the niceties of law as expounded by lawyers had been listened to, or if the police had not gone hand in hand with the judiciary. Proceeding further up the scale we come to the stage of a simple people, generally peaceful, but having in their character elements capable of reproducing disorder, who have been accustomed to see all the functions of Government united in one head, and who neither know nor desire any other form of administration. The law has become more intricate and advanced, and it is applied by the Courts with all the strictness that is necessary in order to guard the liberties of the people. Examples would be easy to find in India of

[27TH MARCH, 1908.] [Sir Harvey Adamson.]

the present day. So far I have covered the stages in which a combination of magisterial and police duties is either necessary or is at least not inexpedient. In these stages the prestige and authority of the Executive are strengthened by a combination of functions. I now come to the case of a people among whom very different ideas prevail. The educated have become imbued with Western ideals. Legal knowledge has vastly increased. The lawyers are of the people, and they have derived their inspirations from Western law. Anything short of the most impartial judicial administration is contrary to the principles which they have learned. I must say that I have much sympathy with Indian lawyers who devote their energies to making the administration of Indian law as good theoretically and practically as the administration of English law. Well, what happens when a province has reached this stage and still retains a combination of magisterial and police functions? The inevitable result is that the people are inspired with a distrust of the impartiality of the judiciary. You need not tell me that the feeling is confined to a few educated men and lawyers and is not shared by the common people. I grant that if the people of such a province were asked one by one whether they objected to a combination of functions, ninety per cent. of them would be surprised at the question and would reply that they had nothing to complain of. But so soon as any one of these people comes into contact with the law his opinions are merged in his lawyer's. If his case be other than purely private and ordinary, if for instance he fears that the police have a spite against him, or that the District Magistrate as guardian of the peace of the district has an interest adverse to him, he is immediately imbued by his surroundings with the idea that he cannot expect perfect and impartial justice from the Magistrate. It thus follows that in such a province the combination of functions must inspire a distrust of the Magistracy in all who have business with the Courts. Can it be said that under such circumstances the combination tends to enhancement of the prestige and authority of the Executive? Can any Government be strong whose administration of justice is not entirely above suspicion? The answer must be in the negative. The combination of functions in such a condition of society is a direct weakening of the prestige of the Executive.

"On these grounds the Government of India have decided to advance cautiously and tentatively towards the separation of Judicial and Executive functions in those parts of India where the local conditions render that change possible and appropriate. The experiment may be a costly one, but we think that the object is worthy. It has been consistently pressed on us by public opinion in India. I have had the pleasure of discussing the question with

Indian gentlemen, among others with my colleagues the Hon'ble the Maharaja of Darbhanga and the Hon'ble Mr. Gokhale. Their advice coincides with my own view, that the advance should be tentative and that a commencement should be made in Bengal including Eastern Bengal. It is from Bengal that the cry for separation has come, and if there is any force in the general principles which I have expounded, it would appear that the need for a separation of police and magisterial functions is more pressing in the two Bengals than elsewhere. One cause may be found in the intellectual character of the Bengali, another in the absence of a revenue system which in other provinces brings executive officers into closer touch with the people, another in the fact that there is no machinery except the police to perform duties that are done elsewhere by the better class of Revenue-officer, another in the fact that there are more lawyers in Bengal than elsewhere, and another, I suspect, in the greater interference by the District Magistrate with police functions in Bengal than in other provinces. These may or may not be the real causes, but most certainly the general belief is that the defects of a joinder of functions are most prominent in the Bengals, and it is on those grounds that we have come to the conclusion that a start should be made in these two provinces.

"It is a very easy matter to propose as an abstract principle that magisterial and police functions should be separated, but in the descent to actual details the subject bristles with difficulties. A solution has been attempted, and it is being sent to the two Local Governments for criticism. It is desirable that it should be submitted to the criticism of the public at the same time. I may therefore now disclose the details. But in doing so I desire to state clearly that the tentative solution is not a final expression of the decision of the Government of India, and that it is merely a suggestion thrown out for criticism with the idea of affording assistance in the determination of a most difficult problem. The general principle outlined is that the trial of offences and the control of the Magistrates who try them should never devolve on officers who have any connection with the police or with executive duties, while on the other hand the prevention of crime should be a function of the District Officer and his executive subordinates who are responsible for the preservation of the peace of the district. The outlines of the scheme, stated baldly, and without discussion, are as follows :—

- (1) Judicial and Executive functions to be entirely separated to the extent that an officer who is deputed to executive work shall do no judicial work, and *vice versa*, except during the short period when he is preparing for departmental examinations.

[27TH MARCH, 1908.] [Sir Harvey Adamson.]

- (2) Officers of the Indian Civil Service to choose after a fixed number of years' service whether their future career is to be judicial or executive, and thereafter to be employed solely on the career to which they have been allotted. The allotment to depend on choice modified by actuarial considerations.
- (3) Officers of the executive branch of the Provincial Civil Service and if possible, members of the Subordinate Civil Service to be subject to the same conditions as in (2), though the period after which choice is to be exercised may be different.
- (4) During the period antecedent to the choice of career officers of both services to be gazetted to Commissioners' divisions and to be deputed to executive or judicial duties by the Commissioner's order.
- (5) During this period deputation from executive to judicial or *vice versa* must be made at intervals not longer than two years.
- (6) High Courts to be consulted freely on questions of transfer and promotion of all officers who have been permanently allotted to the judicial branch.
- (7) Two superior officers to be stationed at the head-quarters of each district, the District Officer and the senior Magistrate.
- (8) The District Officer to be the executive head of the district, to exercise the revenue functions of the Collector and the preventive magisterial powers now vested in the District Magistrate, to have control over the police, and to discharge all miscellaneous executive duties of whatever kind.
- (9) The magisterial judicial business of the district to be under the senior Magistrate, who will be an officer who has selected the judicial line—either an Indian Civilian or a Deputy Magistrate of experience. He will be the head of the Magistracy and his duties will be (1) to try important criminal cases, (2) to hear appeals from second and third class Magistrates, (3) to perform criminal revision work, and (4) to inspect Magistrates' Courts. In districts where these duties do not give him a full day's work he may be appointed an additional District Judge and employed in civil work and in inspecting Civil Courts. If, where the senior

## FINANCIAL STATEMENT.

[Sir Harvey Adamson.] [27TH MARCH, 1908.]

Magistrate is an officer of the Provincial Civil Service, it is considered inexpedient on account of his lack of experience to give him civil work, he may be appointed Assistant Sessions Judge. In either capacity he would give relief to the District and Sessions Judge.

- (10) At head-quarters of districts, where there are at present Indian Civilians, Deputy Magistrates and Sub-deputy Collectors, a certain number to be deputed to executive and the remainder to judicial work.
- (11) Sub-divisional boundaries to be re-arranged, and each district to be divided into judicial sub-divisions and executive sub-districts. The boundaries of these need not be conterminous. The area of a judicial sub-division to be such as to give the judicial officer in charge a full day's work, and similarly with executive sub-districts. Boundaries to be arranged so as to disturb existing conditions as little as possible.
- (12) Thus the whole district is divided into—
  - A. Executive—
    - (a) Head-quarters,
    - (b) Sub-districts,
 and also into—
    - B. Judicial—
      - (a) Head-quarters,
      - (b) Sub-divisions,
 and the staff is divided into—
    - A. Executive, under the District Officer, namely:—
      - (a) The District Officer.
      - (b) A certain number of Indian Civilians, Deputy Collectors and Sub-deputy Collectors at head-quarters.
      - (c) An Indian Civilian or Deputy Collector for each sub-district.

[27TH MARCH, 1908.] [Sir Harvey Adamson ; the Commander-in-Chief ; the Lieutenant-Governor.]

B. Judicial, under the senior Magistrate, namely :—

(a) The senior Magistrate.

(b) A certain number of Indian Civilians, Deputy Magistrates and Sub-deputy Magistrates at head-quarters.

(c) An Indian Civilian, or Deputy Magistrate for each sub-division.

(13) The District Officer to be empowered as a District Magistrate, and certain other executive officers to be empowered as first class Magistrates, solely for the performance of the preventive functions of Chapter VIII (omitting section 106) to Chapter XII of the Code of Criminal Procedure."

His Excellency THE COMMANDER-IN-CHIEF said :—"The Hon'ble Mr. Gokhale and some other Hon'ble Members alluded to a possible reduction in military expenditure consequent on the recent Agreement and the cordial relations which so happily exist between a great northern Power and ourselves."

"The Council may rest assured that this factor has by no means been lost sight of, nor has it been underrated; but it must be remembered that other weighty considerations affecting the external and internal security of this country have to be kept constantly in view."

His Honour THE LIEUTENANT-GOVERNOR said :—"Your Excellency, as there are but few points raised in this discussion to which I need refer in this place, I have very few remarks to make. On some points I shall have to speak in my own Council; and in respect to one, the immensely important matter of the relation of executive and judicial functions, it will be my duty to submit my views to the Government of India before communicating them to the public."

"I regret that the Government of India have not considered it advisable to give any assistance to Local Governments in respect of the expenditure involved in compensation to Government servants for the dearness of grain. This expenditure is not trifling. In Bengal it was about ten lakhs during the current year, and is estimated at about nine lakhs for next year. It is in great degree, an indirect result of famine; and the analogy of the financial arrangements to assist Local Governments in famine relief, might lead to the hope of assistance here also. I do not, however, desire to press any complaint in view of the difficulties of the financial situation."

[The Lieutenant-Governor.] [27TH MARCH, 1908.]

"I regret that while in almost all other provinces all the local rates have been surrendered to local purposes, the public works cess in Bengal is still taken as a part of the general revenues. I have no doubt, however, that the localisation of the public works cess is accepted as a reform to be undertaken at the earliest opportunity.

"I am thankful for the assistance given to enable the Local Government to continue to push forward much-needed reforms in the police. I congratulate my Hon'ble friend on his able and successful handling of a difficult situation. He has not been able to continue in some of its lines the liberal and beneficent policy which he has hitherto pursued; but, in spite of the existence of a famine, he has framed a budget which inspires nothing but hope.

"I should like in conclusion to say a word in regard to the remarks which have fallen from my Hon'ble friend Mr. Aparcar regarding the Calcutta Improvement Scheme. I hail with pleasure the vigour of his statement of the necessity for that Scheme. I share with him the satisfaction with which he must have heard from the Hon'ble the Home Member that the scheme, while lost to our view, was making progress. We are not indifferent to the scheme; and we desire to push it forward.

"At the same time I should like to point out to my Hon'ble friend that his statement was somewhat defective. He read to us an indictment framed years ago against the sanitation of Calcutta. But he did not tell us whether every word of this is still true. That indictment pointed out defects which only a great improvement scheme will remove. But it also indicated great defects due to neglect of measures within the power of the Corporation. I do not know how far my Hon'ble friend's business or inclinations lead him into the city, and how far he could tell us of its present condition. I am sure that, if he has ascertained the facts, he will admit that things have improved very considerably not only in regard to the formerly neglected parts of ordinary sanitary work but also in regard to the treatment of bustis.

"In another respect my Hon'ble friend failed in applying his quotations of the literature of 1898 to the present time. He quoted Sir Herbert Risley's views as to the necessity for giving the mercantile community their true place in the work of the Corporation. He did not go on to tell us that the constitutional change which Sir Herbert Risley was advocating was then and there carried out, and that the mercantile community were called to a front place. Their responsibility for municipal work is real and most important. It has been so for ten

[27TH MARCH, 1908.] [The Lieutenant-Governor; Mr. Baker.]

years; and it will continue to be so. The Calcutta Improvement Scheme will not do everything. It will not relieve the Corporation of its responsibility for the sanitary state of Calcutta and for municipal work in general. The mercantile community took their place in the Corporation eagerly ten years ago. Lately there have been signs of the cooling of their zeal. Their loss of interest in the work would be a very great calamity. I trust that the remarks of my Hon'ble friend, and the deep draughts he offers of the vintage of 1898, may restore their former enthusiasm and prevent them from growing weary in well doing."

The Hon'ble MR. BAKER said:—"It is within the bounds of possibility that this may be the last occasion on which the debate on the budget will be conducted under the present regulations. Before next March comes round, it is at least conceivable that the reform of procedure indicated in the Home Department circular of the 26th August last, or something of that nature, may have come into operation. In this view I had the curiosity the other day to turn up the report of the first budget debate that took place under the regulations that are now in force. It was in 1893, just 15 years ago. It is true that the Council had not then been enlarged; that came a year or two later, and the total number of non-official Members was only five, one of whom, the Hon'ble Dr. Rash Behary Ghose, is an honoured Member of the Council at the present time. That was however the first occasion on which the Financial Statement was presented for discussion by the Council in accordance with the statute of 1892; and it is impossible not to be struck by the change that has come over the financial position, and also the character of the debate, during this period of 15 years.

"At that time the whole subject of Indian finance was overshadowed by the question of sterling exchange. The bottom seemed to have fallen out of silver altogether: it was anticipated that the United States would shortly cease their purchases: the Indian Mints were still open to free coinage; the Brussels Monetary Conference had separated without coming to any agreement; Lord Herschell's Committee was sitting, but no remedy had yet been devised for the grave danger which occupied men's minds in this country to the practical exclusion of every thing else. Sir D. Barbour estimated exchange for 1893-94 at 1s. 2½d. to the rupee, and this rate eventually proved to be in excess of the actual figure. The Finance Minister was compelled to estimate for a deficit of over 1½ crores in 1893-94, following on one of over a crore in the previous year, and he made it clear that his calculations must only be regarded as provisional and intended to



fill the interval that must elapse till the currency problem had been settled one way or another. The capital grant for Irrigation Works was 75 lakhs, or just one-half of what we are now providing for next year. For Railway construction and development, those of our critics who are not satisfied with an allotment of 15 crores, may be interested to know that 15 years ago we were only able to provide 280 lakhs for State Railways and 307 lakhs for Companies' lines, or 587 lakhs in all, *i.e.*, little more than 40 per cent. of the grant for next year.

"It is not, however, so much the alteration in the financial situation that I wish to dwell upon. What has impressed me most is the character of the debate in the Council of that day. It was a real debate on the budget. The speeches were for the most part a good deal briefer than has been the custom of late years, and scarcely any point was raised or question put which was not closely connected with the Statement before the Council. Thus Sir J. Mackay, the Commercial Member, discussed the all-important currency question, and vigorously advocated the adoption of the gold standard. Sir Griffith Evans criticised the Home charges, especially the cost of the India Office, commented on the growth of the Army charges, and urged that the deficit was really due in part to the retention of the famine grant. Another Member asked for information regarding the rupee loan, and suggested that a part of the cash balances should be invested. A fourth proposed to reduce the famine grant, commented on the variations between the percentage of collection charges in the different provinces, advocated the reduction of registration fees, and greater liberality in the issue of takavi loans. The Hon'ble Dr. Ghose confined himself to a very brief expression of doubt whether the time was opportune for the grant of compensation to the services for the fall in exchange. The replies of the official Members were rather longer, but I should imagine that the entire proceedings must have been completed before the luncheon interval.

"Anyone who has followed the discussions for some years past will readily perceive how far we have travelled since 1893. It has become a commonplace of criticism that the so-called budget debate bears little or no relation to the budget. The observations made range over almost the whole field of Indian administration, but a great proportion of the points that are pressed upon us have no financial bearing or only a nominal one. We are frequently told in the Press that these discussions are unreal and devoid of interest and that they lead to nothing. I think that this criticism may easily be pushed too far, for it is beyond doubt that many of the comments and suggestions that fall from Hon'ble Members, whether strictly relevant to the budget or not, are

[27TH MARCH, 1908.]

[Mr. Baker.]

thoughtful, suggestive, and instructive and they commonly deserve and invariably receive the attentive consideration of Government. Many illustrations might be given of this, but I will merely point to the exclusion from our accounts of the transactions of Local Funds, of which a description was given in the Financial Statement, and which followed a suggestion made in last year's debate.

"However that may be, Your Excellency's Government have recognized the defects of the practice which prevails under the existing regulations, and have expressed their desire to bring the debates into closer relation with the financial policy and administrative decisions of the Government. I have endeavoured to show that those defects were less noticeable at the outset of the present system; they have been the growth of later years, and may possibly be connected with the greater size of the enlarged Council. If the Council is still further enlarged, the need for stricter regularity in procedure and closer insistence on the rules of relevancy will become imperative; and I think that the experience of 1893 (and, I may add, of other years also) shows that the debates need not thereby lose anything in force, freedom or value.

"In making these remarks, it is very far from my intention to make any reflection on the comments which we have heard today. On the contrary, I think that many of them are very much to the point; and I shall now proceed to reply to some of the more important among them.

"In the first place we take note of His Honour the Lieutenant-Governor's remarks about grain compensation. That is now a considerable charge on the Provincial finances and no provision was made for it in the present Provincial settlement. I had not realised that it was so much as 9 lakhs in Bengal, and I admit that is a heavy burden on the province. It is impossible to make any promise now, but I may say that we shall be ready to see what can be done when more favourable times comes round.

"I fear that I can hold out no expectation of any increase to the Provincial assignments to Burma. This question was fully and sympathetically considered last year and we are satisfied that this Province has, under its present settlement, received as much as it is fairly entitled to. I observe that its Budget provides for an expenditure of more than 97 lakhs for public works, which is far in excess of any other Province. For Railways I notice that the Railway Board have allotted considerably over 80 lakhs to various lines in Burma, and I think that is not an illiberal proportion of the total grant.

"I do not understand why the Hon'ble Member complains that Burma receives no part of the export duty on rice. That duty is not at all suitable

for provincialisation, because it is liable to violent fluctuations according to the demand from India, and if we gave the Local Government a share in it, the Provincial finances would be liable to be upset by causes over which the Government had no control.

"I am glad to learn, from the remarks that have fallen from the Hon'ble Mr. Sim, that the Madras Government appreciates the terms of the settlement which, subject to the Secretary of State's approval, has been framed for that Province. The traditions of Madras have long been characterised by economy and the careful management of its finances, and I do not doubt that the enhanced resources which will now be placed at its disposal will be usefully and economically applied.

"The Hon'ble Mr. Reynolds has pointed out that the expenditure which his Province has been forced to incur on famine relief in the two years 1907-1908 and 1908-1909 has largely exceeded the sum of 30 lakhs which represented the reserve of credit to which it was entitled under the scheme introduced last year. What he says is perfectly true. In the two years, the charge on this account will amount to 16½ lakhs, and of this, under the terms of last year's scheme, 95 lakhs are Imperial, while 7½ would have been Provincial had the Province been able to find the money. This means that the famine in the United Provinces falls into the third of the three categories provided for by the scheme. We acknowledge that further assistance is required, and, as is expressly explained in the body of the Financial Statement, that assistance is being freely given, though the full measure to be accorded cannot properly be determined till later on. I do not think that the Hon'ble Member need feel any apprehension that he will be dealt with in an illiberal spirit. Both he and also the Hon'ble Munshi Madho Lal have been good enough to acknowledge the favourable nature of the terms accorded in the new Provincial settlement, and that is evidence of our desire to deal with the United Provinces as handsomely as we can.

"As regards the other four Provinces which have been affected by the famine, but in a less degree, I have explained in paragraph 62 of the Financial Statement that last year's scheme has operated with entire success and has relieved their finances entirely from disorganisation.

"I have listened with interest to the Hon'ble Mr. Reynolds' account of the measures which the Local Government is organising to combat the ravages of plague. The same is being done in other Provinces where the epidemic has been most widely prevalent, especially Bombay and the Punjab, and the Government of India are hopeful that the special grants which they are now allot-

[27TH MARCH, 1908.]

[Mr. Baker.]

ting for this purpose will enable every Local Government at least to make a beginning with this most important work. It has been alleged that the grants are inadequate. I think, however, that reasonable persons will admit that with the limited resources available in the present year, we have done as much as could fairly be expected, and it is, moreover, open to doubt whether, in the first year of the campaign, larger sums could be spent to advantage. I can give no pledge for the future: but it is betraying no secret to say that the matter is one which Your Lordship has very much at heart, and when better times come round, the public health will stand an excellent chance of sharing in any further assistance which it may be in our power to bestow.

"The Hon'ble Mr. Chitnavis has invited us to impose a protective import tariff in the interest of indigenous industries and further asks us to consider the question of abolishing the excise duty on Indian cotton piece-goods."

"I scarcely think that the Hon'ble Member can expect that any action will be taken on his suggestion. The last general election in England was fought mainly on the issues of tariff reform, preference and protection, and the verdict of the electors was sufficiently decisive. If Your Lordship's Government were so misguided as to put forward proposals for the introduction of a protective tariff, it is not difficult to imagine the answer we should receive from the House of Commons, more especially as protective duties, if imposed at all, would necessarily be directed especially against British manufacturers who are far and away our principal rivals in the Indian market.

"Why the Hon'ble Member complains that the excise on Indian salt brings in a larger revenue than the corresponding import duty is difficult to understand. The rates of duty are exactly the same, and the only reason why the former is more productive is that much more salt is produced in India than is imported from abroad. I should rather have expected the Hon'ble Member to rejoice at this striking evidence of the flourishing condition of a truly swadeshi industry."

"The cotton excise duties are a subject on which it is necessary to speak with some reserve." We are all aware of the circumstances in which they were imposed in their present form, in 1896; I do not think that those circumstances have undergone any material change since then; and if that is so, it seems to be certain that if Parliament were approached with a request for the abolition of the duties, the reply would be that this could only be permitted if the import duties on cotton goods were simultaneously removed. I do not know how the Hon'ble Member would regard such a contingency; but for my part, I should

regard it as calamitous. The import duties on cotton piece-goods have latterly yielded over a crore of rupees per annum, and for the current year they are estimated to yield over 150½ lakhs. Adding to this 32½ lakhs for the excise duties, the total loss of revenue involved would be close upon a million and a quarter sterling. We are certainly not in a position to face any such sacrifice of revenue. Even this is by no means all. It would be quite indefensible to retain our general import tariff, if we exempt from it the largest and most important staple of imports. If the cotton duties were abolished, it would be impossible for long to maintain the import duties on other goods, and the revenue from these—putting aside the duties on articles subject to a special tariff—amounts approximately to 3 crores. The Hon'ble Member's proposal would therefore lead us by rapid stages to a total loss of revenue of over 4½ crores per annum and would place us in a position of extreme embarrassment. We should be compelled to redress the balance either by curtailing most necessary and desirable expenditure, or by the imposition of fresh and less appropriate taxation. In my view this would be doubly disastrous, for I venture to hold that there is scarcely any source of revenue which is so well adapted to the conditions of India as import duties, provided always that they are pitched on a moderate scale.

“Nor can I admit that the excise duties have in practice checked the development of the Indian mills. From 1896-97 to 1906-07 I find that the outturn of woven goods in these mills has increased from 81 million lbs. to 165 million lbs. or by 103 per cent., whereas the output of yarns, on which there is no duty, has increased by only 56 per cent. in the same period.

“More than one Hon'ble Member has referred to the table relating to the taxation of Salt given in paragraph 41 of the Financial Statement, and some gentlemen seem to take exception to the figures of incidence per head of population, on the ground that the wealth of the various countries mentioned is different, and that therefore the true burden of the tax is not measured by its absolute amount. To that view I readily assent, but I would add that no inference on the subject was suggested or intended. My object in inserting paragraphs 40 and 41 of the Financial Statement was quite different. People in this country often speak as though India was the only country in the world which raises a revenue by taxing a necessary of life like salt. I desired to show that this was an entire mistake: and that if we do sin in this respect, at least we sin in numerous and respectable company.

“I note with pleasure the zeal of the Hon'ble Tikka Sahib in the cause of temperance. I can assure him that the matter is very seldom absent from our

[27TH MARCH, 1908.]

[Mr. Baker.]

thoughts, and that we are making steadfast and unceasing efforts to prevent the evil of intemperance from arising in India. Three years ago, I pointed out in this Council how insignificant the actual consumption of alcohol is in India, and also showed that there had been a distinct reduction in the consumption per head during the past 20 years. Since then we have had the advantage of studying the valuable report of Sir James Thomson's Excise Committee of which I gave some account last year, and the Hon'ble Member may be assured that step by step we are bringing into operation the approved reforms which were advocated by that body.

"I am sorry to learn that the Hon'ble Member is disposed to class tobacco with intoxicants. Tobacco may be abused like anything else: and no doubt it is deleterious to children. But when used in moderation I believe it to be free from objection. It certainly is one of the very few luxuries of the poor in this country; and I should be exceedingly sorry to see its legitimate use interfered with.

"In the Financial Statement I advisedly abstained from enlarging on the question of Railway finance, for the reason that this matter has been remitted by the Secretary of State for consideration by Sir J. Mackay's Committee, and until their report is received and considered it seems a mere waste of time for us to propound our views regarding it. I shall follow the same course now, and the only reason why I advert to the matter at all is that the Hon'ble Mr. Aparcar may not be led to suppose that Government is either deaf or indifferent to the arguments which he has addressed to us with so much authority and force. The Committee is one of the strongest that could have been constituted for this purpose, and it is fair to anticipate that unless the problem is really insoluble (which is not to be believed), they will devise a satisfactory solution.

"His Excellency the Commander-in-Chief has alluded to the Convention with Russia, and the degree to which it affects the military situation in India. I will merely add that full account was taken of these considerations in framing our military budget; and that but for this it is probable that the estimate of special expenditure for the improvement of the Army might not have been fixed at the moderate figure at which it now stands.

"In the interesting and suggestive speech of the Hon'ble Maharaja of Darbhanga there is one proposal which concerns the Finance Department in a special degree. I refer to the suggestion that the budget should be presented early in January, and that the official year should terminate on the 31st December.

instead of the 31st March. It is clearly impossible to give an opinion off-hand on so sweeping a change, which might have more far-reaching consequences than would appear at the first glance. I will have the matter looked into, but *prima facie* I foresee considerable difficulty and not a few objections, and I am not sanguine that the change desired by the Hon'ble Member will commend itself to Government or the Secretary of State.

"I observe that Mr. Gokhale is inclined to doubt whether the financial situation is at present stronger than it was in 1900-01. I think, however, that if the late Sir Clinton Dawkins were alive, he would readily endorse my view. The Hon'ble Member refers to the Provincial deficits of  $1\frac{1}{2}$  Crores and argues that if these are taken into account there would really be a deficit of 115 lakhs. I explained last year at some length how these Provincial surpluses and deficits operate, and I will not go over the ground again. But the plain truth is that these deficits are really an indication, not of weakness, but of strength. They mean that the Local Governments have built up reserves of cash or credit, on which they are able to draw in times of stringency, and which enable them to carry on the administration of the country unimpaired and without being crippled by the temporary contraction of their revenues. The Hon'ble Member acknowledges that the level of taxation has been lowered since 1900, but thinks that that does not alter the real character of the comparison. I think I understand what the Hon'ble Member means; but surely remissions of taxation aggregating some 5 crores of rupees per annum are a most substantial reserve of Financial strength? That reserve had no existence eight years ago. I am unable to understand on what reasonable ground they can be left out of account in comparing the position at the two periods.

"Mr. Gokhale has asked us whether we cannot add another table to the Financial Statement in order to show our revenue and expenditure net, instead of gross as at present. There is so much pressure on our establishments at the time the budget is compiled that I am reluctant to add to their burdens by prescribing another statement. But *prima facie* it does not seem as if the statement which the Hon'ble Member desires would give much trouble, and I dare say that there might be some advantage in presenting the figures net as well as gross. I will, therefore, consider the suggestion and see what can be done. Meanwhile, I would ask him to look at the statement numbered E at page 93 of the Financial Statement. This seems to give most of the information he requires, and possibly it may be sufficient for his purpose.

"The Hon'ble Mr. Gokhale has renewed his appeal to us to apply our

[27<sup>TH</sup> MARCH, 1908.]

[Mr. Baker.]

surpluses, not to the construction of public works but to expenditure on sanitation. This question has formed the subject of discussion at at least two recent budget debates, and I fear the Hon'ble Member and the Government are irreconcilably divided, and can only agree to differ. Apparently he would like us to set aside the whole or some part of each surplus as it occurs, and to hand it over in a lump to the Local Governments, not for immediate expenditure, but to be put into a separate pocket, and doled out from time to time for expenditure on local sanitation. Now, the Government of India are fully alive to the importance of doing what is possible for the improvement of the public health, and the recurring grant of 30 lakhs which they have just assigned to Local Governments is some evidence of the interest they take in this matter. But the course advocated by the Hon'ble Member is not in our judgment the proper way to deal with the problem. It is a fundamental principle of modern public finance that current expenditure shall be met from current revenue. Sanitation is current expenditure, and should therefore be financed from current revenue, and not from windfalls. Cases may no doubt arise in which it is convenient or advantageous to apply an unexpectedly large surplus to some special object of a non-recurring character. When that has seemed to be the case we have not hitherto shown any pedantic insistence on theoretical principles. But it is not sound finance to attempt, as a regular procedure, to provide funds for a permanent and continuing public service from sources which are necessarily spasmodic and precarious. When a surplus does occur, it cannot as a rule be more usefully applied than in reduction of the national debt, which is the residuary legatee of all moneys not required for current expenditure. I should be only too glad if I could see the Hon'ble Member's hope realised, and a million sterling a year provided by Government for the improvement of public sanitation; though I fear that this consummation is likely to be delayed. But if it should ever come about, the money must be found from current revenue, and not be dependent on the occurrence of surpluses, large or small.

"The Hon'ble Mr. Gokhale has referred to the question of our cash balances, and has reminded us that in 1876-77 the Government of Lord Northbrook thought it sufficient to provide for a closing cash balance of  $13\frac{1}{2}$  crores whereas for next year we estimate for one of 18 $\frac{1}{2}$ . Mr. Gokhale mentions a figure of 25 or 30 crores; but, at least within recent times, we have never had a balance anywhere near that amount.

"It is however not really to the point to look at the closing balance of the year. What we have to consider is the period of minimum balances. There are certain months of the year, August, September, October and November (and



[Mr. Baker.]

[27TH MARCH, 1908.]

sometimes also December), in which the revenue we receive is far less than their proportionate share. During those months, therefore, our balances always run down: and the end of November (or occasionally December) is ordinarily the time when our balances are lowest. It is of course essential that we shall at all times have sufficient till money in each of our numerous treasuries, which are over 250 in number scattered all over the country, to enable us to meet all our obligations at a moment's notice, without risk of even temporary default. Our position in that respect is that of a Bank with a number of branches, each of which must be maintained in a solvent condition on every day of the year. In 1888 Sir J. Westland, who had special experience of this subject, calculated that 8 crores of rupees was the lowest sum with which it was possible to carry on our treasury business. That is 20 years ago. Subsequently, as a result of the gradual development of our transactions, he raised this figure to 9 crores. Sir Edward Law, who paid much attention to the matter, again raised it to 10 crores: and since his time, it has been our policy to increase it still further to 12 crores. I do not believe that that is a bit too much for safety, but as a matter of fact we have barely succeeded in reaching it. This figure of 12 crores represents the point below which our balances cannot safely be allowed to fall, even at the time when they are lowest, *i.e.*, ordinarily at the end of November. It necessarily follows that at other seasons they will automatically stand at a higher level. The figure of 18½ crores which we reckon on for next year is merely the March equivalent of 12 crores, or thereabouts, in November. The increase since Sir J. Strachey's time is really very moderate. In 1876-1877 our total transactions in India, including capital and debt, receipts and disbursements, amounted to 204 crores. In 1906-1907 they had risen to 552 crores. The increase in our cash balances by less than 5 crores is manifestly in a far smaller proportion, and it would certainly have had to be very much greater had it not been for the great intermediate improvement in communications, which has enabled us to mobilise our resources with a rapidity that would have been impossible thirty years ago.

"We have heard a good deal today about the high range of prices, and the distress which this undoubtedly causes to certain classes of the population. Various opinions have been expressed on the subject and Government has been pressed to appoint a committee to enquire into the matter. Some days ago, in answer to a question in Council, the Hon'ble Mr. Miller stated that we were considering the question of appointing such a committee, which would include representatives of the public, to enquire into the matter. If that course should presently be adopted, it would clearly be inconvenient that we should prejudge the question now or commit ourselves in advance to any particular

[27TH MARCH, 1908.]

[Mr. Baker.]

theory which further investigation might show to be ill-founded. In that view, I wish to add as little as possible to what has fallen from my Hon'ble Colleague on this subject.

"One suggestion, however, has been made which I do not wish to pass over altogether in silence. It has been suggested that the prevailing high prices of food grains may be connected in some way with the large additions that have been made to the rupee currency during the last few years. Here also, I do not wish to speak dogmatically, or to pledge the Government to any positive theory. I shall deal presently in more detail with Mr. Gokhale's remarks on this subject. But apart from detail there are two considerations which seem to be inconsistent with the view that has been put forward, and which will certainly require to be very fully examined and explained before the latter could be accepted.

"In the first place, the whole of the new coinage that we have undertaken during this period has been undertaken solely to meet the demands of trades. Not one single rupee has been added to the circulation except to enable us to meet those demands: and, so far from being ahead of trade requirements, it will I think be generally agreed that our tendency has been rather to lag behind them, and to work on too narrow a margin, until in 1906 we established the silver branch of the Gold Standard Reserve. Now, I would remind the Council of the dictum of Sir Clinton Dawkins on this subject. Eight years ago, he pointed out that 'as long as Government refrains from coining rupees except upon the demand of trade, there can be no dilution of the currency. As I said just now, we have always invariably conformed most strictly to this condition, and if Sir C. Dawkins' principle is sound, as I believe it to be, our action cannot have led to any dilution of the currency. I am aware that it may be alleged that rupees coined in answer to trade demands may not be redundant so long as the demand exists, but that when it slackens off, they have no outlet, and then become redundant. I shall return to this a little later. But whether that be so or not, the history of the present rise of prices lends no colour to the argument. For the activity of Indian trade, and the consequent demand for currency, were as prominent and vigorous as ever down to August of last year: and if the argument were sound there would have been no redundancy until six months ago. Yet we know well that the rise of prices began long before then. In 1904, when the prices of food stuffs were lower than they had been for a decade, the index number of 7 selected food grains was 117. In 1905 it was 147: in 1906 it was 179: and in 1907 it was practically the same, *viz.*, 178. It is evident, therefore, that whatever the cause

of the rise in prices may be, it must have been in active operation long before there was any possibility of a redundancy of the coinage.

"The second point to which I wish to draw attention is this. If it were the case that the cause for which we are seeking is to be found in the additions to the coinage, its effects would have made themselves apparent not merely in the prices of food grains, but in those of other principal staples as well. Now this is not the case. I have taken out the figures for a number of non-food staples, comparing the price in February 1908 with that in February 1906, and though they exhibit great differences, yet there are only three articles, *vis.*, oil seeds, cow hides, and raw tobacco, in which there has been an increase in price comparable to that which has taken place in food grains during the same period. Of the remainder some have remained stationary while others have actually decreased. Thus in the great cotton industry cotton yarn has fallen in value by 23·5 per cent, T. cloths by 14·3 per cent, longcloths by 7·3 per cent, and chadars by 12·2 per cent; and raw cotton has remained steady with a nominal advance of 2·28 per cent. Raw jute has fallen by from 24 to 36 per cent according to the marks; and gunny bags by 16·1 per cent, while Hessians have advanced by only 2·1 per cent. Petroleum has varied according to brands, but the average rise is only a little over 5 per cent, and buffalo hides have remained unchanged. If the increase of the currency was the *causa causans* of the rise in food grain prices, it must equally have tended to raise the price of each of these staples also; and those who hold that view will have to explain why it has failed to affect them.

"The only other remark I have to make on this subject is this. If the rise in the rupee price of food grains were really due to an excessive supply of rupees, one would naturally expect to see the gold value of the rupee depressed in something like the same proportion. Now that is notoriously not the case. That sterling exchange is inclined to be weak at the present moment is true, and in the Financial Statement I have endeavoured to trace the causes of this. But, except for a very short period in the end of November, the exchange value of the rupee has all along been maintained above gold export point, which means that it has maintained or very nearly maintained its parity with gold. So long as the rupee is linked with gold and not with silver, and represents a fixed fraction of a sovereign, rupee prices must bear a close relation to gold prices. India is by no means the only country which is experiencing high prices at present. The same phenomenon is also affecting countries so widely different as England, Germany, Egypt, and Japan. According to the index numbers of the *Economist*, gold prices have risen by 30 per cent during

[27TH MARCH, 1908.]

[Mr. Baker.]

the five years ending July 1907, while the corresponding rise in rupee price of 7 selected food grains during the same period has been 26 per cent. I have no intension of committing myself on a matter so obscure and controversial, yet I may perhaps go thus far, that it would be a matter for little surprise if, as a result of enquiry, it should be found that the movements of rupee prices in India, in so far as they are not due to local and temporary causes, are traceable to some cause connected with the value of metallic money, both gold and silver, in the markets of the world.

"I will now return for a moment to the question of the additions made to the coinage in late years. The Hon'ble Mr. Gokhale has drawn attention to the large output of rupees during this period, and has told us that it greatly exceeds the average coinage before the Mints were closed; and he suggests that the currency thus swollen may become redundant, and lead to a general rise of prices.

"There is not the least reason to apprehend any undue increase of the circulation. The fact is that the figures presented by the Hon'ble Member are quite misleading and give a most inaccurate view of the true facts. He gives us certain figures which he says represent the average annual coinage of rupees for a number of years *minus* old rupees recoinced. But he omits the six years from 1894 to 1899 on the ground that during that period little or no coining was done. But the fact that no additions were made to the currency for six years is a most important element in the case, and it is wholly misleading to omit this period. Again, he makes no deduction for the recoinage of old rupees during the last three years, 1905 to 1907, but thinks that the number must have been small. That is quite incorrect. At all times, both before and since the closing of the Mints, defaced and light weight rupees were constantly being withdrawn and recoinced, and part of the new coinage was merely to replace these. But during the last few years we have gone much further than this. We have been calling in the rupees of the issues of 1835 and 1840, i.e., all rupees issued before 1861. These are now never re-issued to the public, but are melted down and recoinced and a very considerable part of the apparent additions to the coinage is merely the replacement of these. It is also necessary to deduct the 6 crores of rupees which have been coined for the silver branch of the Gold Standard Reserve, for these have not been put into circulation and never will be except temporarily to meet a sudden emergent demand. The correct figures to look at are those which represent the net additions to the coinage, year by year. We maintain a complete account of these, and I will ask the Council to accept them in lieu of those presented by Mr. Gokhale. If we

examine these figures, we shall find that during the 15 years that have elapsed since the closing of the Mints, the net additions to the coinage have amounted to a little less than 84½ crores. This represents an average of a little more than 5½ crores a year. Now, in the 15 years immediately preceding the closing of the Mints, the net additions to the coinage (after making the same allowance for withdrawals) amounted to over 105 crores of rupees, or slightly more than 7 crores a year. It is quite true that in the former period there was a certain diminution by melting and that this does not occur now. But on the other hand, as the volume of the circulation grows, the annual loss by wastage and wear and tear also increases, and it has been estimated that the yearly reduction at present is about as great as it was formerly. I may mention that this annual wastage has been estimated at about 4 crores a year. Moreover, during the last 15 or 20 years the population, wealth and trade activity of India have expanded enormously, and it is manifest that a much larger circulation is required now than was sufficient in former times. When in addition to these considerations it is remembered that the annual addition to the coinage is now less by 1½ crores a year than it was 15 years ago, I do not think there need be the smallest apprehension of redundancy.

"If the above view is correct Mr. Gokhale's question is of no present practical importance, and I am generally averse from discussing questions which are merely academic. The suggestion, moreover, involves the assumption that a redundancy of currency is in fact possible, and that if it did occur it would lead to a rise of prices. This is a highly controversial matter and one which is quite inappropriate for discussion in this place. If however we assume for the sake of argument that the currency did become temporarily in excess of requirements, and that the excess was greater than could speedily be cleared off by ordinary wastage, then there is still no fear that such a condition of things could last. In a country with an automatic currency, when the circulation is temporarily redundant, the surplus flows away under the ordinary operations of trade in the form of exports of coin. That outlet is not available in India, because rupees can only be exported at their bullion value, and the loss of doing this would be prohibitive. But we have provided another outlet for the excess. This may be applied in two ways, *viz.*, either we may give gold in exchange for rupees, in which case the gold will be available for export; or, when this is inconvenient or impracticable, we may sell bills on London. This latter course was indicated in the Financial Statement, and was brought into operation two days ago. Each of these methods has the same effect on the currency. They draw off the surplus rupees, and withdraw them from the effective circulation until the demand once more revives and the temporary redundancy has ceased.

[27TH MARCH, 1908.] [Mr. Baker, the President.]

The machinery which enables us to apply these remedies consists of the gold in our currency reserve in India and London, and the gold securities and gold in the Gold Standard Reserve. These two resources combined now stand at over 20 millions sterling, or 30 crores of rupees, and if applied to this purpose would enable us on occasion to contract the circulation by about one-sixth of its total amount.

"In conclusion, I have only to acknowledge the generally favourable spirit in which the budget has been received by the Council, and the frank and friendly nature of the observations and criticisms which have been made upon it. We are well aware that it is not a progressive budget: we are in fact only marking time. But when it is remembered that we are combating a serious famine, which will cost us over 2 crores of rupees in direct famine relief besides suspensions and remissions of Land Revenue exceeding  $3\frac{1}{2}$  crores more, I think we have some reason to congratulate ourselves that we are indeed marking time, and not falling back. Of the latter there is neither sign nor apprehension, and, as I said last week, if the ensuing rains should be of a normal character, there is every reason to hope that the prosperity and progress of the country will speedily resume their forward course."

His Excellency THE PRESIDENT said:—"Last year it was my good fortune to be able to congratulate the Hon'ble Mr. Baker on the general prosperity which continued to assure the success of his financial policy, and though today we have been called upon to consider a Budget framed, I regret to say, under very different conditions, I cannot but express to him my appreciation, in which I know my Colleagues will share, of the administrative ability which has enabled him so well to meet a period of financial strain. We have again to deal with a famine, less serious no doubt than that of 1897 or 1900, but bringing with it much misery and suffering for the people of India, making heavy calls upon our revenue, and grievously delaying expenditure which last year we had every reason to hope might be still further devoted to the development of the country and the welfare of its population.

"The extent and severity of the present famine is perhaps not quite fully realised, or possibly the knowledge that far better machinery exists for coping with distress than was available in former years has relieved the anxiety of the public—forgetful of the demands entailed upon the public purse. The Hon'ble Mr. Baker has told us that in the present year over 2 crores of rupees have been already distributed in the afflicted districts, and that 2 crores are being

[The President.]

[27TH MARCH, 1908.]

provided for issue next year—in comparison with 2·3 crores in 1896—1898 and 2·9 crores in 1899—1901. But it is money well spent, for, with the terrible history of former famines still fresh in our memories, I cannot but think we may gratefully recognise the results of past experience in the administrative efficiency which has enabled us, with no greater strain, to provide for a famine area of approximately 150,000 square miles, with 1½ millions of persons in receipt of relief.

“And in the midst of all this distress a ray of sunshine lights up the gloomy outlook, for the ravages of the plague are weakening. The total deaths from plague in Bombay, the United Provinces and Punjab in 1908 are very much lower than those of the corresponding period in 1907. I find that in January and February of the latter year, the deaths in those provinces were 44,319 and 78,063 against 7,445 and 11,898 in January and February of this year, whilst the total deaths in January and February 1907 were 122,382 against 18,343 in the same months of this year—an enormous reduction in mortality, and, allowing for climatic influences, I trust that we may not be too sanguine in hoping that this terrible scourge is at last beginning to give way to scientific research and to the energy of our officers assisted by the people themselves. The Hon’ble Mr. Reynolds has told us of the efforts made by the Government of the United Provinces to familiarise the people with the idea of inoculation, and of the reassuring effects of His Majesty’s gracious letter of sympathy—and though I am well aware that, as the Hon’ble the Maharaja of Darbhanga has told us, the sources of plague, as of many other dire diseases, are to be found in the absence of effective sanitation, we must remember that effective sanitation in its modern sense is often opposed to long established customs which cannot be immediately thrown aside, and whilst persistently aiming at improvements in that direction we shall I am sure for long be compelled to rely much upon those experimental measures which have already been so beneficial when systematically adopted.

“To return for a moment to the famine. I cannot entirely follow the arguments of the Hon’ble Mr. Chitnavis as to its causes. He admits the necessary results of a failure of the monsoon, but wonders that the same cause does not produce the same disastrous results in other countries. Now all agricultural countries are peculiarly dependent on the seasons, drought and storms are everywhere answerable for much ruin, but I know of no agricultural country so peculiarly dependent on climatic conditions as India is on the monsoon. A failure in the monsoon must mean scarcity of produce, and consequent distress—and so I am afraid it must always be—except that I

[27TH MARCH, 1908.]

[The President.]

firmly believe that new conditions will arise as India develops, not to take the place of a good monsoon, but to afford employment and a livelihood to those who might otherwise have starved for want of food. In the present famine we have already seen something of such conditions, a demand for labour, high wages and easier means of leaving afflicted districts to gain employment elsewhere. As years go on, such conditions will, it is to be hoped, multiply and will more and more assist the opportunities for a livelihood. I agree with my Hon'ble Colleague that economic questions are amongst the greatest of future Indian problems. I am far from saying there is no political unrest, but I believe that we shall find much more genuine unrest, or rather much more justifiable unrest, in respect to economic difficulties than in the region of so-called politics. That unrest will be associated with the development of Indian home industries, for though India is, in the first place, an agricultural country, it is in the development of resources that India herself possesses that the increasing educated community must look for employment. India will require to cherish her young industries.

"It is on economic, and I would add on social, questions that the future of India so largely rests, questions full of difficulty both largely dependent for their solution on the people of India themselves. There is much in what the Hon'ble the Tikka Sahib has said as to social life in this country, but no one can know better than he does the strength of tradition and veneration with which it is surrounded and the difficulty of bridging the gulf which separates it from modern ideas, and yet with him I earnestly hope that the clouds are beginning to lift,—that we are beginning to look further ahead,—and that racial differences of thought and custom will grow less and less.

"We have been told today of the efforts the Government of India is making to improve its administration in the interests of the people. The Hon'ble Mr. Miller has very ably explained to us the practical and scientific line upon which agricultural interests are being dealt with, and has told us of the success so far obtained by the newly introduced Co-operative Credit Societies in providing capital for agriculturists and of the development of the vast wealth of India's forests; and we have heard too of the many measures in progress to meet the growing demands of trade at Indian ports, amongst them the great work at Rangoon which the enormously increased commerce of Burma has rendered necessary. The outlook for the future is full of promise, but I am aware of the justice of some of the criticisms we have today listened to, such as the natural demand for improved internal communication in proportion to rapidly-growing requirements, dependent largely upon a railway administration, which we must admit has not as yet proved



itself quite capable of satisfactorily meeting the calls upon it. I need only say that railway administration is now in the crucible, and that I hope a system will be evolved which will keep pace with the times.

"The Hon'ble the Maharaja of Darbhanga has alluded to the Calcutta Improvement Scheme—the evidence that much requires to be done stares us in the face—it is not creditable to a great city that a congested population should have been for so long allowed to exist in its midst with the machinery of sanitation either non-existent or neglected,—in circumstances fraught with danger not only to itself, but to surrounding districts.

"The Hon'ble Sir Harvey Adamson has explained the intentions of the Government of India in respect to the scheme which has its warm sympathy. The delay in carrying it out has been unfortunate; at the same time there have been difficulties connected with its furtherance, peculiar to Calcutta, there has been a dearth of Government land, and of assets upon which necessary funds could be raised. I trust that such difficulties have now been overcome.

"The Hon'ble the Maharaja has drawn attention, as have other of my Hon'ble Colleagues, to the necessity for a reduction in military expenditure—a criticism to which His Excellency the Commander-in-Chief has referred. The Anglo-Russian Convention has not unnaturally drawn attention to such considerations; but, welcoming as I do the confirmation of friendly relations with our great neighbours, I cannot admit that any treaty would justify us in allowing our sword to grow rusty in its sheath. My Hon'ble Colleagues are very right in taking exception to extravagance in military expenditure, but I would venture to point out that reduction of expenditure on such a complicated matter as the army cannot be undertaken hastily without incurring grave risks, and a diminution in efficiency which it would be impossible to restore on the sudden appearance of unforeseen emergency.

"The most expensive weapon may be the cheapest in the long run. We may justly claim the recent expedition as an example. His Excellency Lord Kitchener's military organisation enabled us to draw a sharper and better tempered sword than we have ever drawn before—the machinery of the expeditionary force had been tested in the Commander-in-Chief's workshop before it took the field, and, when it did so, it was complete in every detail; the result has been an expedition of exceptional success and brevity, and brevity means economy. If India had preferred a cheaper weapon, we should have had to pay, and pay heavily, for loss of time, to say nothing about loss of life. Short as the expedition was, I hope its lessons will not be thrown away, and that the acceptance of a sound military administration may enable us to look forward with confidence to the great responsibilities of the future.

# FINANCIAL STATEMENT.

273

[28TH MARCH, 1908.]

[The President.]

"Now that the Calcutta session of the Government of India has come to a close, I cannot but recall the words I addressed to my Colleagues at our last Budget debate in reference to the political future, and the reforms which the Government of India had ventured to submit to the Secretary of State. I then gave an assurance that no legislation in connection with those reforms should be undertaken before the public in India and at home had had ample opportunity for an expression of opinion on the proposals we had placed before them.

"Those proposals have now been published and submitted to Local Governments, all of whose replies have not as yet been received. The Government of India has always been anxious for the opinions and the criticisms of the public, and it is to that source they largely look for independent advice; but I confess I was hardly prepared, if my interpretation of his remark is correct, for the concluding portion of the Hon'ble Mr. Gokhale's speech. He tells us that many things have happened during the last few years, but he omits to notice the efforts made by the Government of India to meet the representations put forward in these years, whilst he criticises the action of a Secretary of State, who, whilst determined to support law and order, has been throughout sympathetically in touch with the justifiable aspirations of the people of India.

"My Hon'ble Colleague talks of the Government of India advancing and receding. They have advanced, but they have not receded; they have placed certain proposals for the amelioration of the political position in India before the Indian public, and they have asked that public for its opinion. My Hon'ble Colleague passes by the request that the Government of India have made—not only that, in the face of that offer of reforms he has attributed to us hesitation and want of appreciation of the ambitions of the people of this country. I hope however that, when this Council next assembles, measures will have been accepted by His Majesty's Government and will be ready for legislation here, and which will go far to meet the aspirations of those who have the welfare of the Indian people at heart."

The Council adjourned *sine die*.

J. M. MACPHERSON,  
Secretary to the Government of India,  
Legislative Department.

CALCUTTA;

The 27th March, 1908.



# INDEX

TO THE

## PROCEEDINGS

OF

### THE COUNCIL OF THE GOVERNOR GENERAL OF INDIA,

ASSEMBLED FOR THE PURPOSE OF MAKING

### LAWS AND REGULATIONS.

#### Volume XLVI.

#### A

	<i>Pages.</i>
<b>ADAMSON, HON'BLE SIR HARVEY, Kt., C.S.I.—</b>	
Answers to Questions by—	108, 134, 135, 154
Coroners (Amendment) Bill	98, 101, 103
Financial Statement	245
Indian Trusts (Amendment) Bill	20, 98
Legal Practitioners (Amendment) Bill	26, 92
Prevention of Seditious Meetings Bill	22, 29, 56, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 76.
Public Charities Accounts Bill	143
Whipping (Amendment) Bill	113, 116
<b>ADDITIONAL MEMBER. *Seat taken in Council by</b>	
Apcar, Hon'ble Mr. A. A., C.S.I.	91
Drew, Hon'ble Mr. W. W.	91
Gokhale, Hon'ble Mr. G. K., C.I.E.	29
Ismay, Hon'ble Mr. S., C.S.I.	91
Maung Bah-Too, Hon'ble, K.S.M.	91
Merk, Hon'ble Mr. W. R. H., C.S.I.	91
Saiyid Muhammad Sahib Bahadur, Hon'ble Nawab	91
Walker, Hon'ble Mr. Gordon, C.S.I.	1

**AGRICULTURAL PROSPECTS—**

Statement by Hon'ble Mr. Miller regarding — 84

**APCAF, HON'BLE MR. A. A., C.S.I.—**

Financial Statement . . . . . 160

Took his seat as Additional Member of Council . . . . . 91

**ARBUTHNOT & Co., MESSRS.—**

Questions regarding— . . . . . 153

**B**

**BAKER, HON'BLE MR. E. N., C.S.I.—**

Answers to Questions . . . . . 109, 112, 134

Financial Statement . . . . . 135, 255

Indian Tariff (Amendment) Bill . . . . . 05

Local Authorities Loan Amendment Bill . . . . . 3, 19, 21

Prevention of Seditious Meetings Bill . . . . . 78

**C**

**CALCUTTA HIGH COURT—**

Question regarding— . . . . . 135

**CATTLE, PLOUGH—**

Question regarding— . . . . . 154

**CENTRAL PROVINCES TENANCY ACT—**

Question regarding— . . . . . 109

**CHITNAVIS, HON'BLE MR. G., C.I.E.—**

Code of Civil Procedure Bill . . . . . 127-130

Financial Statement . . . . . 202

Questions asked by — . . . . . 108, 109

**CODE OF CIVIL PROCEDURE BILL, 1901 —**

Motion for leave to withdraw the Bill . . . . . 3

**CODE OF CIVIL PROCEDURE BILL, 1907—**

Motion for leave to introduce . . . . . 5

Introduced . . . . . 16

Motion to publish . . . . . 16

Referred to Select Committee . . . . . 98

Report presented . . . . . 104

Report taken into consideration . . . . . 118

Amendments moved . . . . . 128-130

Passed . . . . . 131, 132

COMMANDER-IN-CHIEF, H. E. THE—  
Answers by — to Questions  
Financial Statement . . .

208  
253

CORONERS (AMENDMENT) BILL—

Referred to Select Committee . . . . . 98  
Report presented . . . . . 101  
Report taken into consideration . . . . . 103  
Passed . . . . . 103

COUNCIL OF THE GOVERNOR GENERAL FOR MAKING LAWS AND  
REGULATIONS—

Adjournment of . . . 17, 20, 27, 31, 89, 96, 98, 101, 105, 132, 151, 273  
Meetings of . . . . . 1, 19, 21, 29, 33, 91, 97, 99, 103, 107, 133, 153

D

DARSHANGA, HO'NBLE MAHARAJA, K.C.I.E.—

Financial Statement . . . . . 214

DEBATES IN COUNCIL—

Code of Civil Procedure, 1901 . . . . . 3  
" " " 1907 . . . . . 5, 16, 98, 104, 118, 131, 132  
Coroners (Amendment) Bill . . . . . 98, 101, 103  
Financial Statement 155, 158, 160, 165, 179, 196, 197, 202, 209, 214, 223, 233  
245, 253, 255, 269.  
Indian Limitation Bill . . . . . 92, 95, 105, 138  
Indian Tariff (Amendment) Bill . . . . . 95, 96  
Indian Trusts (Amendment) Bill . . . . . 20, 98  
Legal Practitioners (Amendment) Bill . . . . . 26, 27, 92  
Local Authorities Loan (Amendment) Bill . . . . . 3, 19, 21  
Presidency-towns Insolvency Bill . . . . . 145, 151  
Prevention of Seditious Meetings Bill . . . . . 22, 25, 29, 36, 73  
Public Charities Accounts Bill . . . . . 139, 145

DREW, HON'BLE MR. W. W.—

Took his seat as Additional Member of Council . . . . . 91

E

EDUCATION, PRIMARY—

Question regarding— . . . . . 36

F

FAMINE—

Statement by Hon'ble Mr. Miller regarding— . . .

	<i>Pages.</i>
FINANCIAL STATEMENT FOR 1908-1909—	
Introduced and explained . . . . .	135-138
Discussed . . . . .	155-273

#### FOOD-GRAINS—

Question regarding export of— . . . . .	109
---	-----

#### FUNCTIONS—

Question regarding separation of Judicial from Executive— . . . . .	35
---	----

#### FINLAY, HON'BLE MR. J. F., C.S.I.—

Answers by — to Questions . . . . .	106
-------------------------------------	-----

### G

#### GHOSE, HON'BLE DR. RASHBEHARY, C.I.E., D.L.—

Code of Civil Procedure Bill, 1907 . . . . .	15, 16, 126
Prevention of Seditious Meetings Bill . . . . .	25, 47, 65-67, 71, 78
Public Charities Accounts Bill . . . . .	139, 145

#### GOKHALE, HON'BLE MR. GOPAL KRISHNA, C.I.E.—

Financial Statement . . . . .	165
Prevention of Seditious Meetings Bill . . . . .	36, 69, 70, 72, 73, 81
Questions asked by— . . . . .	33, 34, 35, 36, 99, 100
Took his seat as Additional Member of Council . . . . .	29

GOODS, JAPANESE. Question regarding— . . . . .	154
--	-----

### H

#### HARVEY, HON'BLE MR. W. L., C.I.E.—

Answers to Questions . . . . .	154
Financial Statement . . . . .	223

#### INCOME-TAX—

Questions regarding— . . . . .	108, 112
--------------------------------	----------

#### INDIAN LIMITATION BILL—

Motion for leave to introduce . . . . .	92
Introduced . . . . .	95
Motion to publish . . . . .	95
Referred to Select Committee . . . . .	105
Report presented . . . . .	138

**INDIAN TARIFF (AMENDMENT) BILL—**

Motion for leave to introduce	95
Introduced	96
Motion to suspend the rules	96
Passed	96

**INDIAN TRUSTS (AMENDMENT) BILL—**

Motion for leave to introduce	20
Introduced	20
Motion to publish	20
Taken into consideration	98
Passed	98

**ISMAY, HON'BLE MR. S., C.S.I.—**

Code of Civil Procedure	118
Took his seat as Additional Member of Council	91

**L****LALA LAJPAT RAI—**

Questions regarding—	33, 34, 35
----------------------	------------

**LALA ZORAWAR SINGH—**

Questions regarding—	133
----------------------	-----

**LEGAL PRACTITIONERS (AMENDMENT) BILL—**

Motion for leave to introduce	26
Introduced	27
Motion to publish	27
Taken into consideration	92
Passed	92

**LIEUTENANT-GOVERNOR, HIS HONOR—**

Financial Statement	253
---------------------	-----

**LOCAL AUTHORITIES LOAN (AMENDMENT) BILL—**

Referred to Select Committee	3
Report presented	19
„ considered	21
Passed	21

**M****MADHO LAL, HON'BLE MUNSHI—**

Code of Civil Procedure	124
Financial Statement	209
Public Charities Accounts Bill	142
Questions asked by —	133, 34, 135



**MAUNG BAH-TOO, HON'BLE, K.S.M.—**

Financial Statement . . . . .	158
Took his seat as Additional Member of Council . . . . .	91

**MERK, HON'BLE MR. W. R. H., C.S.I.—**

Took his seat as Additional Member of Council . . . . .	91
---	----

**MILLER, HON'BLE MR. J. O., C.S.I.—**

Agricultural prospects . . . . .	84
Answers by — to Questions . . . . .	109, 110, 112, 154
Financial Statement . . . . .	233

**N****NAWAB SAIYID MUHAMMAD SAHIB BAHADUR, HON'BLE—**

Financial Statement . . . . .	155
Questions by — . . . . .	153
Took his seat as Additional Member of Council . . . . .	91

**P****PLAGUE RESEARCH COMMITTEE—**

Question regarding — . . . . .	108
--------------------------------	-----

**PRESIDENCY-TOWNS INSOLVENCY BILL—**

Motion for leave to introduce . . . . .	145
Introduced . . . . .	151
Motion to publish . . . . .	151

**PRESIDENT, HIS EXCELLENCY THE—**

CODE OF CIVIL PROCEDURE BILL, 1907 . . . . .	16
Financial Statement . . . . .	269
Prevention of Seditious Meetings Bill . . . . .	81

**PREVENTION OF SEDITIOUS MEETINGS BILL—**

Bill introduced . . . . .	22
Referred to Select Committee . . . . .	25
Report presented . . . . .	29
Report taken into consideration . . . . .	36
Amendments moved . . . . .	64, 65, 66, 67, 69, 70, 71, 72, 81
Passed . . . . .	73

**PRICES—**

Question regarding rise in— . . . . .	112
---------------------------------------	-----

**PROVINCIAL CIVIL SERVICE—**

Question regarding— . . . . .	134
-------------------------------	-----

PUBLIC CHARITIES ACCOUNTS BILL—

Motion for leave to introduce . . . . .	139
Introduced . . . . .	145
Motion to publish . . . . .	145

Q

QUESTIONS—

Interpellations by the Hon'ble Mr. G. Chitnavis regarding—

Income tax . . . . .	108
Central Provinces Tenancy Act . . . . .	109
Exports of food grains . . . . .	109
Rise in prices . . . . .	112
The Indian Income Tax Act . . . . .	112
Japanese goods . . . . .	154
Prices of plough cattle . . . . .	154

by the Hon'ble Mr. Gopal Krishna Gokhale regarding—

Lala Lajpat Rai . . . . .	33, 34, 35
Separation of Judicial from Executive functions . . . . .	35
Free primary education . . . . .	36
Indian subjects in the Transvaal . . . . .	99, 100

by the Hon'ble Munshi Madho Lal regarding—

Lala Zorawar Singh . . . . .	133
Provincial Civil Service . . . . .	134
Calcutta High Court . . . . .	135

by the Hon'ble Nawab Saiyid Muhammad Sahib

Bahadur, regarding Messrs. Arbuthnot & Co., Madras . . . . .	153
--	-----

by the Hon'ble Tikka Sahib, Ripudaman Singh of Nabha regarding—

Sikh temples . . . . .	2
Imperial Service Troops . . . . .	107
Plague Research Committee . . . . .	108

R

REYNOLDS, HON'BLE MR. H. W. W.—

Financial Statement . . . . .	197
-------------------------------	-----

RICHARDS, HON'BLE MR. H. ERLE, K. C.—

Code of Civil Procedure Bill, 1901 . . . . .	3
Code of Civil Procedure Bill, 1907 . . . . .	5, 16, 98, 104, 118, 128, 129, 130, 131, 132
Indian Limitation Bill . . . . .	92, 95, 105, 138
Presidency-towns Insolvency Bill . . . . .	145, 151

S

SETTLERS, INDIAN—

Question regarding — in the Transvaal . . . . .	99, 100
---	---------

SIM, HON'BLE MR. H. A., C.I.E. —

Financial Statement . . . . . 196

## T

TEMPLES, SIKH—

Question regarding destruction of— 2

TIKKA SAHIB RIPUDAMAN SINGH OF NABHA, HON'BLE—

Code of Civil Procedure . . . . . 120

Financial Statement . . . . . 179

Prevention of Seditious Meetings Bill . . . . . 55

'Public Charities Accounts Bill . . . . . 141

Questions asked by— . . . . . 2, 107, 118

TROOPS, IMPERIAL SERVICE—

Question regarding— . . . . . 107

## W

WALKER, HON'BLE MR. GORDON, C.S.I.—

Took his seat as Additional Member of Council . . . . . 1

WHIPPING (AMENDMENT) BILL—

Motion for leave to introduce . . . . . 113

Introduced . . . . . 116

Motion to publish . . . . . 116

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